THE CANADA–U.S. FREE TRADE AGREEMENT

COMMENTARY and RELATED DOCUMENTS

Commentary Prepared by

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CCH CANADIAN LIMITED
PUBLISHERS OF TOPICAL LAW REPORTS
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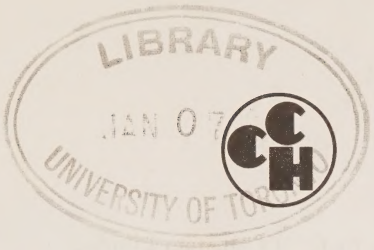

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Foreword

After months of on and off negotiations, Canada and the United States agreed in principle to the essential elements of a Free Trade Agreement on October 3, 1987. This Agreement, once implemented on January 1, 1989, will create the world's largest free-trade area. The commentary in this book is based upon the essential elements of the Agreement released by the Canadian and U.S. Governments immediately following the October 3 Agreement. Also reproduced are the texts of the press releases issued by the U.S. relating to the Agreement and related documents published by both Canada and the U.S.

In the months and years ahead, after the final text of the Agreement is approved and the phase-in of certain elements has begun, the full impact of the Agreement upon Canada's trading relationship with the United States will become more evident. For readers who wish to closely follow and keep up to date with this new and important aspect of Canada's trade laws, CCH Canadian Limited will be publishing, in early 1988, a new loose leaf reporting service, the CANADIAN TRADE LAW REPORTER, written by John D. Richard, Q.C., and Richard G. Dearden of Gowling & Henderson, which will reproduce detailed commentary and related legislation concerning Canadian international trade and customs laws.

October 16, 1987

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A Closer Look: Analysis of the Agreement*

¶100 Introduction

Canada and the United States agreed in principle to the essential elements of a Free Trade Agreement (also referred to as "FTA" or "Agreement") literally at the eleventh hour on October 3, 1987. The elements of the FTA are currently being translated into a full text by the negotiating teams. Once implemented, the FTA will create the world's largest free trade area.

The objectives of the FTA are to: (a) eliminate barriers to trade in goods and services, (b) facilitate conditions of fair competition, (c) significantly expand liberalization of conditions for investment, (d) establish effective procedures for the joint administration of the Agreement and the resolution of disputes, and (e) lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of the Agreement.

The FTA deals with tariffs, customs, quantitative restrictions, government procurement, standards, financial services, services, investment, temporary entry for business purposes, energy, automotive trade, agriculture, wine and distilled spirits. The FTA creates a Canada–U.S. Trade Commission and a Binational Panel dispute settlement mechanism for antidumping and countervailing duty cases. The FTA also provides for the development during the next five years of a new system for resolving antidumping and countervailing disputes between Canada and the U.S.

The FTA is an historic and far-reaching document. In many respects it can serve as a model for the Uruguay Round of multilateral trade negotiations which is determined to halt and reverse protectionism, to remove distortions to trade, to preserve the basic principles of the General Agreement On Tariffs and Trade (GATT) and to develop a more open, viable and durable multilateral trading system.

*This commentary was written by John D. Richard, Q.C., and Richard G. Dearden of GOWLING & HENDERSON with contributions by Alan R. O'Brien, George Addy, Scott Fairley, Robert Dechert, Ronald D. Lunau and Eli McKhool all of GOWLING & HENDERSON.

¶ 200 Implementation of the Free Trade Agreement

Canada and the U.S. have agreed to ensure that all necessary measures are taken to give effect to the provisions of the FTA, including their observance by state, provincial and local governments. In addition, Canada and the U.S. have recognized that the FTA is subject to domestic approval on both sides and, accordingly, have agreed to exercise their discretion in the period prior to the entry into force of the FTA so as not to jeopardize the approval process or undermine the spirit and mutual benefits of the FTA.

¶ 210 CONGRESSIONAL APPROVAL

The FTA had to be concluded on or before October 3rd by reason of the U.S. Trade Act of 1974. Under that Act Congress gave the President the power, during the 13-year period ending on January 3, 1988, to negotiate and enter into trade agreements with foreign countries subject to Congressional approval, the so called "fast track" process. This process provides that the President must give the Congress at least 90 days notice of his intention to enter into an agreement and after entering into the agreement, the President must submit a copy of the Agreement to the Congress and subsequently a draft implementing bill. The Bill must be examined by the House Ways and Means Committee and the Senate Finance Committee. Each House must then vote on the Bill. It had been assumed that this process had to be completed in 60 legislative days. However, some U.S. officials now claim that Congress has 90 working days, not 60, to approve or reject the Agreement without amendment. A simple majority of each House is required for acceptance. An executive agreement entered into pursuant to a Congressional statutory authority, such as the process described above, results in the provisions of the law overriding prior inconsistent federal laws and state laws.

¶ 220 PARLIAMENTARY APPROVAL

In Canada, the Federal Government has the constitutional authority to bind Canada to a treaty such as the FTA without having to obtain the consent of Parliament or the provinces. Even though a treaty is binding upon Canada internationally, it has no automatic legal effect domestically. Unlike the U.S. where self-executing treaties become the law of the land, legislation and regulations will be required to implement some of the obligations assumed in the FTA. Jurisdiction to implement these provisions is divided between the Parliament and the Provincial Legislatures in accordance with the division of powers set out in sections 91 and 92 of the Constitution Act, 1867. The Prime Minister has announced that the Canadian Government will place the FTA before Parliament in the form of a resolution for debate. Parliament and the Legislatures are not bound by the resolution approving the treaty and the resolution does not have the effect of domestic law in Canada in the absence of imple-

menting legislation. It is to be noted that the U.S. Trade Representative has stated categorically that Congress will not accept the FTA unless all of the Canadian provinces signify their approval of it. At the present time three of the Provinces (Ontario, Manitoba and Prince Edward Island) have voiced disapproval of the Agreement. It remains to be seen whether provincial dissent will result in the Congress voting against the FTA.

¶ 230 COMPLIANCE WITH GATT

It is important to note what the FTA is, as well as what it is not. The FTA is not a Customs Union such as the Treaty of Rome, which established the European Economic Community. It is a Free-Trade Area Agreement within the meaning of Article XXIV of GATT. Thus, Canada and the U.S. have agreed to eliminate customs duties and other restrictive regulations of commerce on substantially all the trade in products between the two countries. Unlike a Customs Union, which also contains this element, the FTA does not require Canada and the U.S. to develop a common external trade policy. Both countries continue to maintain independent trade relations with other countries.

¶ 300 Tariffs

Canada and the U.S. have agreed to eliminate all customs duties on goods by 1998. The reductions in customs duties will commence January 1, 1989, except for specialty steel items. Reductions for specialty steel items commence October 1, 1989. Customs duties will be eliminated in three stages: (a) immediate duty elimination, (b) duty elimination in five equal stages, and (c) duty elimination in ten equal stages. The staged elimination of duties can be accelerated upon the mutual agreement of Canada and the U.S. The categories of duty elimination will be based upon the Harmonized System of tariff classification (HS) which will be adopted by both Parties on January 1, 1988.

To date the Parties have not officially indicated the type of goods that will be assigned to each of these categories. However, it is anticipated that some of the goods that will fall into these stages are as follows:

(a) immediate elimination of duties — computers, fur and fur garments, leather, whiskey, yeast, animal feeds;

(b) five equal stages — machinery, subway cars, chemicals including resins but excluding drugs and cosmetics, furniture, pulp and paper products, explosives, printed matter, and telecommunciations equipment;

(c) ten equal stages — most agricultural products, beef, steel, textiles and apparel, appliances, ships and railway cars.

Because a large number of manufactured goods will not be duty free until 1998, the benefits of the FTA may not be immediately apparent to the Canadian consumer.

The United States has agreed to restore duty-free treatment for western red cedar shingles upon termination of the current U.S. section 201 action on that product. However, the Parties have agreed that the FTA does not impair or prejudice the exercise of any rights or enforcement measures arising out of the 1986 Softwood Lumber Memorandum of Understanding.

¶ 400 Customs

The FTA had to address the issue of the tariff treatment afforded to goods produced in countries other than Canada or the U.S. that are transhipped through one of the Parties to the Agreement. The FTA's elimination of customs duties will make it attractive for such goods to be further processed in one of the Parties and be declared goods originating in Canada or the U.S. and therefore qualified for duty-free treatment. Specific rules of origin will define the extent of processing required for such third country goods to qualify for FTA treatment. The FTA also addresses duty drawbacks, foreign trade zones and duty waivers to ensure that such programs are not used by third countries to avoid tariffs.

¶ 410 RULES OF ORIGIN

Specific rules of origin will determine whether goods qualify for treatment under the FTA. These rules of origin may be amended by consent of both parties after consultation with industry.

Goods that incorporate non-party materials are eligible for treatment under the FTA if these non-party materials are "sufficiently processed" such that they are classifiable under a Harmonized System tariff item that is different from the HS tariff item under which the non-party materials were initially classified. In other words, if Canada imports goods from a third country under one HS tariff item, those goods must be sufficiently processed in Canada such that they are classifiable under another HS tariff item when exported to the U.S. in order to qualify for treatment under the FTA.

In addition, certain imported articles will also be required to incur a specified percentage of their manufacturing costs in either Canada or the U.S. or both countries to obtain the benefits of the FTA. These goods have not been identified to date.

Importers will base their claims for tariff treatment under the FTA on a written declaration from the exporter that the goods being imported meet the rules of origin requirements of the FTA. Upon request, exporters will be required to supply this written declaration to the customs

administration in the country of exportation. False declarations by either the exporter or the importer will be subject to penalties imposed by the respective governments.

¶ 420 APPAREL

Apparel made from third country fabric above a specified level (with a sub-level for apparel made from third country wool) will be subject to the Most Favoured Nation (MFN) tariff. Apparel made from fabric formed in Canada or the U.S. shall receive the FTA's tariff treatment.

¶ 430 DUTY DRAWBACKS

Duty drawbacks (other than on goods exported in the same condition in which they were imported) for bilateral trade will be eliminated five years after implementation of the Agreement (i.e. 1994). At that time, duty drawback may be extended as mutually agreed. The parties have agreed to an indefinite extension for citrus products and for apparel made from third country fabric and subject to the MFN.

Five years after implementation, goods produced under programs that conferred benefits similar to duty drawback (e.g. Canada's inward processing program, U.S. Foreign Trade Zones) and exported to the other party shall be treated for duty purposes, upon exportation, as if they were entered for consumption in the producing country. This means, in the case of U.S. Foreign Trade Zones, that goods made from third country components in a zone will be subject to duty on the value of those third country components at either the finished good or the component tariff rate.

¶ 440 DUTY WAIVERS

Except for duty waivers applying to the automotive industry (handled separately), existing duty waivers linked to performance requirements will end within ten years of implementation of the FTA and no new duty waivers linked to performance requirements will be entered into after June 30, 1988, or the date Congress ratifies the FTA, whichever is later.

When Canada or the U.S. grants a company specific duty waiver to a designated firm or individual, it will, if the waiver hurts the commercial interest of the other Party to the FTA, either make the duty waiver generally available or end it. This provision is intended to ensure that company-specific duty waivers are not used in a manner that distorts trade and investment.

¶ 450 CUSTOMS USER FEES

U.S. customs user fees will be phased out within five years of implementation of the FTA.

¶ 500 Quantitative Restrictions

Both Parties to the FTA have agreed they will not maintain or introduce import or export restrictions except in accordance with GATT, or as modified by the FTA. As regards imports, exceptions to this rule will only be allowed for traditional GATT Article XX reasons e.g. health and safety. As regards exports, short supply and conservation measures may be taken, but they must provide for the sharing of the resource with the other Party to the FTA and they may not create price discrimination by other means.

The FTA also provides for the elimination of existing quantitative restrictions, either immediately (e.g. Canadian embargo on used aircraft) or by timetable (e.g. used automobiles). Some quantitative restrictions will be grandfathered (e.g. U.S. and Canadian log export restraints).

¶ 600 Government Procurement

The FTA seeks to improve the GATT Code on Government Procurement on a bilateral basis by eliminating "buy national" restrictions by lowering from $171,000 to $25,000 (U.S.) the threshold at which the procedures set out in the Code on Government Procurement must be followed. Both Canada and the United States are parties to the Code. The FTA also contains a further commitment to undertake further negotiations to improve and expand on this Chapter.

However, it is also clear that FTA coverage is no broader than the GATT, i.e. the FTA commitment only extends to Code-covered entities. On the Canadian side, coverage is limited to the Canadian Government's departments and agencies. Federal Crown corporations were not included, nor were any of the provincial Governments' entities. On the Canadian side, any significant expansion of coverage under this chapter of the FTA would require extensive negotiations and specific agreement between Ottawa and the individual provinces concerned. Potential areas for future concession will more than likely be restricted to the federal field such as with respect to federal Crown corporations (e.g. Air Canada) or public utilities. U.S. coverage under the Code is broader than the Canadian commitment.

¶ 700 Standards

The Agreement contemplates that product and testing standards will not act as an impediment or barrier to the free movement of goods between both countries. At the federal level, there are instances where currently one Party has, on an ad hoc basis, recognized testing or specifications devised by the other Party (e.g. motor vehicles and agrichemical products). The FTA suggests a greater harmonization of standards to eliminate their use as barriers to entry.

Health and safety, environmental, national security and consumer interests are recognized as valid objectives of standards. The standards must not operate to exclude products which meet the objectives. This may be achievable at the federal level but the parties concede that they can only use "best efforts" to bring the provinces and states on board with these objectives. Thus, while the intent might be readily achievable for matters involving federal recall programs, it is difficult to envisage divergent provincial and state interests and economic objectives for things such as air or water pollution being easily harmonized. Within the U.S., the states have not "harmonized" their standards for auto exhaust emissions.

The Parties to the FTA addressed the issue of national security and agreed that nothing in the Agreement shall be construed: (a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests, (b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests relating to traffic in arms and ammunition or taken in time of war, and (c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

The FTA has dealt with procedures to resolve the longstanding issues related to Canada's plywood product standards. On or about March 15, 1988, the Canada Mortgage and Housing Corporation (CMHC) shall issue its evaluation of the American Plywood Association trademarked C-D grade plywood with exterior glue as described in U.S. Product Standard PS-1 for Construction and Industrial Plywood for use in housing financed by the CMHC. If the CMHC does not grant approval or only grants approval in part, the CMHC evaluation shall be reviewed by an impartial panel of experts mutually agreed to by the Parties.

The FTA also includes a pre-notification provision for pending regulations. The importance to be given to comments on proposed regulations by the trading partner will obviously be tempered by the domestic political agenda. Furthermore, at the provincial and state level where political objectives are even more focused, governments will not be eager to forego regulatory authority for the sake of free trade where local industry and economies will be adversely affected without some compensating benefit.

¶800 Financial Services

Although the key elements of the FTA on financial services only comprise one page of the overall Agreement, most sources have agreed that the effect on the financial services sector will be substantial. Unlike other mentioned sectors in the "FTA" the financial services provisions

include four similar but not identical obligations or concessions on behalf of each of the Parties.

The relaxing of the foreign ownership rules for banks and other financial institutions is a most historic change for Canada. The FTA clearly states that Canada must in the future guarantee and extend treatment equal to that afforded to Canadians, to U.S.-controlled entities wishing to purchase shares of previously Canadian-controlled financial institutions. According to the Bank Act, foreign ownership of Canadian chartered banks is limited to a maximum of 25%. It is not expected that other provisions of the Bank Act restricting the ownership of financial institutions by any single shareholder or group of affiliates to 10% will change as a result of the FTA.

The scope of the FTA provisions on financial services is greatly dependent on the definition of the term "financial institution" which is used throughout the Agreement. For Canadian income tax purposes, the term "financial institutions" usually refers to chartered banks, loan and trust companies, credit unions and insurance companies. Accordingly, it would appear that legislative changes will be required not only to federal legislation concerning banks and trust companies, but also to provincial legislation concerning trust, mortgage and insurance corporations.

In addition, the Bank Act presently limits foreign banks (i.e. Schedule B Banks) to a collective maximum of 16% of the total domestic assets of all chartered banks in Canada. According to the FTA, Canada has agreed to remove this discriminatory policy in favour of U.S.-controlled financial institutions. Thus, U.S.-controlled banks will no longer need to be concerned with a maximum asset limit which unfairly limits the amount of the loan business that they can do in Canada. The general rules contained in the Bank Act with respect to the limitation on closely held banks with a capital base of greater than $750 million, will equally apply to U.S. and Canadian financial institutions. Many of the Schedule B banks presently operating in Canada have complained that the net asset limit has prevented them from adequately servicing their clientele in Canada.

In order to dovetail the financial services agreement with the general agreement by Canada to dismantle its investment review mechanisms, the FTA provides that Canada will agree not to use its review powers with respect to the entry of U.S.-controlled financial institutions in a manner inconsistent with the aims of the FTA. On its face, this would appear to suggest that following the coming into force of the FTA on January 1, 1989, the recent trend towards acquisition of Canadian securities dealers by U.S. banking corporations could proceed without hesitation. When asked to comment on the FTA, the Federal Minister of State for Finance stated that in his opinion the FTA does not mean that approvals of U.S. financial institutions' entry into Canada will be granted forthwith and suggested that the Minister would retain his pre-

rogative to review such entry. It is obvious from this statement that the details of the FTA require much further negotiation.

The final key element of Canada's concessions in the FTA regarding financial services is a general statement that it will continue to provide (subject to normal regulatory and "prudential" considerations) to U.S.-controlled financial institutions established under the laws of Canada with the rights and privileges they now have in the Canadian market as a result of existing laws, regulations, practices and stated policies of the Canadian government. In essence, this provision preserves the status quo or "grandfathers" the rights of U.S. financial institutions presently carrying on business in the Canadian financial services sector. Recent amendments to banking and securities regulations in Canada permit a foreign-controlled financial institution to own 50% of a Canadian investment dealer effective June 30, 1987 and, subsequently, 100% by June 30, 1988, well in advance of the effective date of the FTA. Thus, it has been generally perceived that the grandfathering provisions do not represent a major shift in Canadian policy.

The first of the U.S. concessions contained in the FTA concerns the selling and underwriting of Canadian government debt issues in the United States by Canadian financial institutions. Unlike many other provisions of the FTA, this extension of the right to deal in and underwrite Canadian government securities in the United States is extended to provincial and municipal governments. This provision has been welcomed by the Canadian banking industry as a lucrative concession ensuring the banks right of access to the entire U.S. market for the sale of these preferred securities.

The second of the U.S. concessions ensures that Canadian financial institutions will be treated equally to U.S. financial institutions with respect to sections 5 and 8 of the International Banking Act of 1978. These provisions presently restrict foreign-controlled banks from acquiring interest in banks in more than one state. The United States has recently considered relaxing its present limitations on interstate banking and this provision of the FTA will ensure that Canadian banks will be allowed to participate in any such forthcoming liberalization of U.S. banking laws.

The most frustrating of the U.S. concessions is the agreement to extend to Canadian financial institutions the same treatment as that accorded to U.S. financial institutions with respect to amendments to the Glass-Steagall Act and associated legislation and resulting amendments to regulations and administrative practices. The Glass-Steagall Act separates the banking and securities dealing industries in the United States. Canada has participated in recent world trends towards the obscuring of this separation of commercial and investment banking. Although, this provision of the FTA has been attacked in Canada as a toothless concession, Federal Reserve Board Chairman Alan Greenspan has recently

testified before the Congress Sub-Committee on Finance as to the need to allow banks to participate in the underwriting of corporate securities. A presently existing moratorium preventing U.S. banks from underwriting securities and selling mutual funds, insurance and mortgage-backed securities expires on March 1, 1988, well in advance of the effective date of the FTA.

Although the status quo or grandfathering provision granted by Canada does not appear to have been much of a concession given the present state of Canadian law with respect to the participation of banks in the securities industry, the U.S. agreement to maintain the status quo has been seen as a major concession in Canada. The grandfathering agreement has been interpreted by some members of the Canadian securities industry as guaranteeing that the recent acquisition of large percentages of Canadian investment dealers with U.S. operations or subsidiaries, by Canadian banks carrying on business in the United States, and U.S. financial institutions may be allowed to continue in the U.S. despite the present state of the Glass-Steagall Act. On the other hand, it may be argued that present cross holdings of banks and investment dealers which also carry on those two functions in the United States must cease since they are presently contrary to U.S. laws.

Curiously the FTA has excluded financial services from the dispute settlement mechanism governing the settlement of all disputes respecting the interpretation or application of the FTA. It is suggested that the exemption of financial services from the jurisdiction of the Canada–United States Trade Commission may serve to seriously weaken the effect of the Agreement on financial services.

Although the details are as yet very sketchy, it appears certain that the financial services industry will be substantially and historically changed by the FTA.

¶900 Services

In many respects the FTA seeks to address for the first time in a substantial way bilateral trade in services as distinct from goods, thereby recognizing the enormous growth of the service sector in Canada–U.S. trade in the past twenty years. Nowhere has this growth been more dynamic than in the area of telecommunications, stimulated in part by U.S. deregulation, and computer services.

The Agreement is predicated on the essential conditions of national treatment, that is affording the same treatment in the recipient country as that afforded domestic service providers, right of establishment and commercial presence, transparency and settlement all in relation to future laws and regulations. The direct and indirect implications both on service providers in terms of competition and consumers in terms of price, appear profound.

In furtherance of an open market between Canada and the U.S. in telecommunication and computer services, the FTA will in subsequent more formal terms incorporate such principles as non-discriminatory access to basic telecommunications transport services including the sharing and reselling of such services and the purchase and lease of terminal equipment; maintenance of access in the providing of enhanced services through the use of network and computer services within and across the borders of both countries; and assurance that there will be no unreasonable cross-subsidization or other anti-competitive practices from monopoly service providers.

Other services intended to be specified in the Agreement include tourism and certain professional activities (e.g. architecture).

The FTA contemplates ongoing consultation between the Parties respecting the service sectors as well as the potential application of the Agreement to transportation (excluding marine) and a process of dispute settlement. Here again, while the exact scope, application and implications of the Agreement must await the definitive text, the Canadian service sectors of telecommunications, computers and transportation and the future direction of applicable Canadian laws, regulations and policies appear destined for major change.

¶ 1000 Investment

One of the five key objectives of the FTA is the further "liberalization of conditions for investment". In Canada, this means a further reduction of foreign ownership controls under the Investment Canada Act. That Act, which replaced the Foreign Investment Review Act in 1985, is still viewed by some as an impediment to investment in Canada. Experience under the Investment Canada regime would suggest otherwise — i.e., since its inception, Investment Canada has not refused a single transaction which it has reviewed. In any event, whether well-founded or not, the perception remains that foreign investment in Canada is tightly controlled.

The FTA provides that there are to be no domestic equity holding requirements or forced divestitures. Parties will still apparently be required to conform to domestic anti-trust laws which do provide for forced divestiture and, as noted below, divestiture is still possible in cultural industries.

Profits are to move freely between the two countries and, while the federal government may be willing to forego withholding taxes, there is always the possibility of provincial or state equivalents if their tax base begins to erode. Provincial and state corporate law jurisdiction may not necessarily reflect federal objectives and could easily generate barriers to foreign investment including foreign ownership controls. Foreign investors will not be subject to local sourcing requirements which may well

enhance U.S. component access to subsidiaries in Canada. Such barriers could re-appear in government procurement requirements for purchases other than federal.

Gross asset thresholds for direct acquisitions by U.S. investors of a Canadian firm are being raised from $5 million to $150 million over a four-year period whereas the indirect acquisition thresholds will be phased out completely over a three-year period. The thresholds will also apply to third country investors of Canadian firms controlled by U.S. investors. The practical effect of raising the direct acquisition threshold is that, when fully implemented, roughly 85% of transactions currently reviewed will be exempt.

Assuming that these provisions of the FTA are fully implemented, it is possible that given its current non-discriminatory framework, the Investment Canada Act will be amended to extend the thresholds to non-U.S. foreign investors. It does not seem likely that, under those circumstances, Investment Canada will continue to exist as a separate entity. Its responsibilities may well be undertaken by a department such as External Affairs or Regional Industrial Expansion.

Cultural industries continue to be treated as a special case sheltered from foreign control. Canada has agreed that, where U.S. investors must divest themselves of an indirect acquisition of a business in the cultural industry, it will offer to purchase the business at fair open market value. Who will hold the asset and what will then be done with it after acquisition remains to be seen. Also unaddressed is the means by which the fair, open market value will be determined "by an independent, impartial assessment".

Existing laws, regulations and published policies such as those relating to upstream oil and gas interests and uranium have been grandfathered and will decrease in impact on U.S. investments as thresholds increase but for non-U.S. foreign investments they will continue and be applied at current levels.

Future policy changes will have to be in the direction of each Party conferring national treatment on the other with respect to the establishment of new businesses, the acquisition of existing businesses and the conduct, operation and sale of established businesses.

Private investor rights to seek recourse before the courts in Canada or the U.S. are not precluded. Parties may also ask their governments to seek redress on their behalf through the FTA dispute settlement mechanism. This latter right does not exclude private action. It is possible that action will be started on both fronts and what will happen in the event of inconsistent findings is anybody's guess. The jurisdictional tug of war between Canadian courts and the FTA's Canada–United States Trade Commission will be difficult and the outcome far from certain.

¶1100 Temporary Entry for Business Purposes

The FTA will specifically facilitate temporary entry into Canada and the United States by certain business persons and intra-company transferees based in the other country. The Agreement will make no changes to existing procedures for permanent entry.

The beneficiaries of the Agreement will be:

(a) "business visitors" who are listed in the Agreement;

(b) certain "professional business persons";

(c) certain "traders and investors"; and

(d) all "intra-company transferees".

The "business visitors" listed in the Agreement will be included in section 19(1) of the Immigration Regulations, 1978. The result of this action will be to remove the present requirement for these business visitors to obtain a Canadian employment authorization to engage in their employment in Canada. However, an employment authorization will still be required should these visitors intend to engage in secondary employment in Canada (i.e., employment outside the specific employment for which they are permitted to enter Canada).

The other three groups mentioned above, namely "professional business persons", "traders and investors", and "intra-company transferees" will be brought under section 20(5) of the Regulations. Presumably, this will be accomplished by an amendment to the Regulations rather than by simple administrative guidelines. This action will exempt these groups from the usual employment validation process, although these individuals will still be required to obtain an employment authorization at a port of entry.

The elements of the Agreement do not reveal what considerations went into drawing up the lists of visitors referred to in the Agreement, or who is on these lists. Presumably, the Agreement will facilitate transborder business activities in such presently difficult situations as corporate principals or independent business professionals soliciting business or servicing contracts across the border.

In addition, the apparent inclusion of all intra-company transferees in these provisions will also be seen as an improvement on the present situation. Prior to this Agreement, only executives and senior management personnel were generally eligible for facilitated treatment. The Agreement will now extend favourable treatment to other intra-company transfers.

¶1200 Energy

Save and except circumstances of supply deficiencies and national security, the FTA provides for virtual market-driven free trade in energy exports and imports between Canada and the U.S. Many of the earlier constraints on Canadian exports (price and domestic reserve tests for natural gas) have already been modified or eliminated. The Agreement precludes any future constraints and provides for bilateral consultation on any discriminatory measures which might be inconsistent with the principles of the Agreement. How the Agreement will affect Canadian energy exports as potentially influenced by U.S. federal or state or provincial regulatory or governmental policies and decisions remains to be determined. Furthermore, how the Agreement will ultimately impact on the administrative responsibilities of the National Energy Board in terms of issuing licenses for the import and export of energy must also await further clarification.

¶1300 Automotive Trade

The major Canadian concern in this area was to preserve the present status quo under the Auto Pact (Agreement Between Canada and the United States Concerning Automotive Products, signed January 16, 1965, in force September 16, 1966) which, in recent years, has generated a Canadian trade surplus.

The FTA outline of principles suggests that Canada has substantially achieved the objective of leaving the Auto Pact intact. In return, certain remaining tariffs covering original equipment, tires and aftermarket parts are to be eliminated, as well as the longstanding Canadian embargo on used cars. However, the major concession on the Canadian side is in relation to the termination of production-based duty waivers for non-North American automobile manufacturers by 1996 or according to the Schedules in the individual agreements between the companies concerned and the Government of Canada, whichever is sooner. Similarly, Canada has agreed not to extend comparable Auto Pact benefits to any additional foreign manufacturers.

The U.S. concern on these points was that Canada was being employed as a base for increased market penetration by Japanese manufacturers, primarily through assembly plants in Ontario and Quebec. A new rule of origin agreed to under the FTA (50% of direct cost of manufacturing) is further designed to confine the benefits of the Auto Pact to genuine North American automobile manufacturers.

The FTA further contemplates the creation of a "Blue Ribbon Panel" to monitor the health of the North American automobile industry and to propose public policy measures and private initiatives to improve its competitiveness in domestic and foreign markets. It is also declared that the Parties will cooperate in the Uruguay Round to

enhance export opportunities for North American products and administer the Auto Pact in the best interests of employment and production in both countries.

¶ 1400 Agriculture

Canada and the United States have agreed to eliminate all agricultural tariffs within 10 years. However, the Agreement allows Canada to restore temporarily tariffs on fresh fruits and vegetables, under depressed price conditions for a 20-year period. Canada has agreed to eliminate its Western Grain Transportation Act subsidies on agricultural products, primarily millfeeds and rapeseed meal, shipped to the United States through Western Canadian ports. Canada has also agreed conditionally to eliminate import licenses for wheat, barley and oats, and their products. There is also a prohibition of export subsidies (as contrasted with domestic subsidies) on bilateral trade.

Both countries have agreed to take into account the other country's export interests in the use of any export subsidy on agricultural goods exported to other countries. Both countries have also agreed that their primary goal with respect to agricultural subsidies is to achieve, on a global basis, the elimination of all subsidies which distort agricultural trade. This really means that any significant progress in reducing or eliminating subsidies on agricultural products will have to be achieved during the Uruguay Round of multilateral trade negotiations.

¶ 1500 Wine and Distilled Spirits

The present various provincial regimes regulating the production, sale and distribution of beer or malt-containing beverages remain unchanged under the FTA. Consequently, the Canadian brewing industry will be under no direct increased competitive pressures as a result of the Agreement nor will provincial policies aimed at enhancing employment and tax revenue by requiring local production as a precondition to distribution and sale be affected. In the case of wine and liquor however the FTA opens both Canadian and U.S. markets to the same treatment afforded domestic products. The Agreement contemplates an administrative appeal process for listing practices. In the case of pricing of imported wine and liquor products any differential in the list price between imported and domestic products shall only reflect the actual and audited incremental cost of service for imported products. In effect, any and all listing, distribution and pricing discrimination for wine and liquor is to be eliminated in Canada–U.S. trade.

Accordingly, the FTA demarcates a prominent concession by Canada to the United States on a long-standing trade irritant. It is also one of the few areas which, on the Canadian side, clearly extends to alter a market primarily subject to provincial regulation. Throughout all provinces of Canada, the distribution and sale of alcoholic beverages is effec-

tively a provincial government monopoly, in part, because of federal sufferance in that the Importation of Intoxicating Liquors Act making the executive government of the province sole lawful importer of intoxicating liquor. The listing and pricing practices to govern U.S. wines proposed by the FTA are substantially at variance with existing practices of Liquor Control Boards in many provinces, especially those in Ontario, Quebec and British Columbia. Certain British Columbia practices are grandfathered under the Agreement (automatic listing for small B.C. estate wineries in B.C.), but remaining discriminatory practices protective of the small domestic wine industry abound notably in B.C. and Ontario. These practices are clearly incompatible with Canada's FTA commitment to ensure freer market access for U.S. wines.

Provincial liquor marketing practices have also been a source for serious complaint among Canada's other major trading partners as well. They are currently the subject of proceedings by the European Community under the GATT and ongoing investigation by a GATT panel.

Given the confused constitutional jurisdiction in this field, the absence of provincial cooperation or, worse, outright opposition (notably that of the Ontario Government which controls the largest provincial market) could seriously jeopardize this chapter of the FTA. The general position of the Canadian government that this subject-matter of the FTA lies within federal jurisdiction is open to question.

¶1600 Cultural Industries

The so-called Canadian cultural industries (publishing, film and video production, recordings, music publishing and radio, television and cable) are exempt from the provisions of the Agreement. In effect all present federal and provincial laws and policies relating to such activities, with one exception, remain unaffected. The Agreement furthermore appears to reserve to Canada the right to enact future laws and policies relating to such cultural industries without regard to the Agreement. Canada's present policy constraining foreign ownership in the cultural industries remains in place. The one exception is an agreement to eliminate the differential in rates charged by Canada Post as between U.S. magazines printed in Canada and Canadian magazines. In effect, Canadian magazines will no longer enjoy preferential postal rate treatment over such U.S. magazines mailed in Canada. Certain references in the FTA and the Canadian and U.S. interpretations of the FTA create uncertainty as to the treatment to be afforded Canadian tariffs on U.S.-printed material and recordings and the income tax treatment of Canadian ads appearing in U.S. magazines and periodicals. As with other elements of the FTA, a more precise appreciation and understanding of the long-term implications of the Agreement on Canada's cultural industries (including the immigration and temporary working arrangements for

performers of each country) must await the availability of the final legal text.

¶1700 Intellectual Property

The FTA contains very little mention of intellectual property matters (patents, trade marks, industrial designs, and copyright). In the chapter entitled "Other Measures" there is a paragraph to the effect that Canada has agreed to revise its copyright law to provide stronger protection for copyright owners to the retransmission of broadcast programming. This is to take effect when the Agreement goes into force.

Also, both parties have agreed to cooperate in the Uruguay Round of multilateral trade negotiations and in other international forums to improve protection of intellectual property.

A summary of the FTA issued by the Office of the U.S. Trade Representative on October 4th is more comprehensive, emphasizing that the two sides agree that protection of intellectual property is a major necessity for our economies, and that both sides already provide strong protection in most areas of intellectual property. This summary also notes that the two sides have agreed to resolve long-standing trade irritants in broadcasting, including the fact that Canada will protect satellite retransmissions. Additionally, it notes that Canada will also move towards establishing adequate and effective protection of pharmaceuticals in Canada by moderating the current compulsory licensing provisions of the Patent Act.

The Canadian Summary issued by the Office of the Prime Minister on October 4, is silent on the question of intellectual property. There is a mention in the "Preliminary Transcript — Elements of the Agreement" under "Other Measures" that Canada has agreed to revise its copyright law to provide protection to copyright owners in the retransmission of copying programming, to take effect no later than the date of entry into force of the agreement, thus tracking the language of the signed document.

The FTA provides little which explicitly relates to intellectual property except for the agreement mentioned above by Canada to revise its copyright law to protect the retransmission of copyright programming. The U.S. has seen fit to include in its version other items such as the mention of compulsory licensing of pharmaceuticals, which the U.S. has taken as having been previously agreed to by Canada, and being worthy of mention in the context of the present FTA.

It would appear that both countries have agreed either previously or in connection with the FTA to remove trade irritants in the field of intellectual property by appropriate action, and to take a strong position at international forums, with a view to upgrading and strengthening

intellectual property protection in the two countries and around the world.

¶ 1800 Competition Law

Full implementation of the FTA objectives does not require greater integration of Canadian and U.S. anti-trust/competition law. However, this issue will be addressed by the Parties when negotiating the development of a substitute system of laws in both countries for antidumping and countervailing duties. Recent amendments to Canadian competition law have included provisions which parallel those currently existing in the United States. For example, the Canadian merger pre-notification requirements are modelled after Hart-Scott-Rodino filings in the United States. Significant differences however continue to exist, the most notable of which is the U.S. treble damages civil anti-trust relief. Parliament in enacting the Competition Act in 1986 refused to follow the American pattern by not adopting treble damages relief and even denied direct action before the Competition Tribunal by parties other than Canada's anti-trust enforcement agency. Canadian private anti-trust relief is far from close to its American counterpart. Merger and acquisition activity, which in large measure is no longer subject to ownership review by foreign investment regulators, will still be reviewable under domestic anti-trust laws in Canada and the United States.

¶ 1900 Trade Remedies and Dispute Settlement Mechanisms

Canada and the U.S. have agreed in principle on provisions to address trade remedies and dispute settlement. The object and purpose of the dispute settlement provisions is to establish fair and predictable conditions for the progressive liberalization of trade between the two countries while maintaining effective disciplines on unfair trade practices.

¶ 1910 TRADE REMEDIES

¶ 1920 Amendments to Antidumping and Countervailing Duty Laws

Each country reserves the right to change its domestic antidumping and countervailing duty laws provided they are consistent with the GATT Antidumping Code and Subsidies Code. The investigating authorities of each country (in the case of the U.S., the Department of Commerce and the International Trade Commission, and in the case of Canada, the Department of National Revenue for Customs and Excise and the Canadian Import Tribunal) continue to enforce their respective antidumping and countervailing duty laws.

A panel may issue declaratory opinions with respect to changes by one country to its antidumping or countervailing duty laws to determine

if they are consistent with the GATT Codes and with the objects and purpose of the Agreement and whether the changes have the effect of overturning a prior decision of a Binational dispute settlement Panel. If the Panel recommends modifications to such laws, this triggers a compulsory consultation period for 90 days, during which period Canada and the U.S. will seek a mutually agreeable solution which may include remedial legislation. If such legislation is not enacted into law within nine months and no other agreement is reached, the other country may take comparable legislative or equivalent executive action or terminate the Agreement upon sixty days' notice.

¶1930 Substitute System of Laws for Antidumping and Countervailing Duties

Canada and the U.S. have agreed to continue to enforce existing domestic antidumping and countervailing duty laws within their respective jurisdictions. This arrangement shall be effective for five years while a Working Group develops a new system for the resolution of antidumping and countervailing duty disputes. This arrangement can be extended for an additional two years in the event that the Parties have not developed a new system of laws governing antidumping and countervailing duty disputes. Failure to agree to a substitute system after the two-year extension triggers a provision in the FTA that allows either Party to terminate the whole Agreement on six months notice. This termination provision is significant in that the entire FTA will be jeopardized by a failure to negotiate a new antidumping and countervail regime applicable to both countries.

Canada and the U.S. have five to seven years to implement a completely new antidumping and countervail system. This new regime should deal with all aspects of antidumping and countervail investigations and injury inquiries e.g. the filing of a properly documented complaint; the criteria to be used to calculate subsidies, normal values and export prices; the criteria to be used to determine whether a particular government program constitutes a domestic or export subsidy; the establishment of a Canada–U.S. tribunal to hold injury inquiries involving dumping and countervail disputes thereby replacing the current jurisdiction of the Canadian Import Tribunal and the International Trade Commission; judicial review of decisions of this proposed Canada–U.S. antidumping/countervail tribunal.

¶1940 DISPUTE SETTLEMENT MECHANISMS

¶1950 Binational Panel Dispute Settlement in Antidumping and Countervailing Duty Cases

JUDICIAL REVIEW — The FTA creates a Binational Panel process to judicially review antidumping and countervailing duty decisions rendered by the appropriate domestic tribunals. It is to be noted that the

U.S. and Canadian antidumping and countervail laws that existed prior to the FTA continue to apply until such time as they are replaced by a substitute system to be implemented during the next five to seven years. At either Party's request, this Binational Panel would review, based upon the administrative record, final antidumping and countervailing duty orders to determine if an investigating authority of either Party made a decision not in accordance with its law (including statutes, legislative history, regulations, administrative practice and judicial precedent). It is to be noted that "final antidumping and countervailing duty orders" include both decisions rendered by the Canadian Import Tribunal regarding material injury and decisions of the Deputy Minister of National Revenue for Customs and Excise regarding normal values, export prices and subsidies. Thus, the Tariff Board's jurisdiction in this area will be replaced by the Binational Panels. It is also to be noted that the Binational Panel must judically review the "administrative record" (not defined) to determine whether the decision in issue is in accordance with the law. The word "law" includes "statutes, legislative history, regulations, administrative practice and judicial review". It would therfore appear that the scope of the decision that can be judicially reviewed by a Binational Panel will be wider than that of the Federal Court of Appeal today in that "law" includes the "administrative practice" of Revenue Canada and the Canadian Import Tribunal.

The Binational Panel will replace judicial review of Canadian Import Tribunal decisions by the Federal Court of Appeal pursuant to section 28 of the Federal Court Act. It would appear from the wording of the "elements of the Agreement" that the Binational Panel completely replaces judicial review by the Federal Court of Appeal. This may not be the case. The Deputy Minister of Justice has stated that "where neither government invokes the Panel procedure before a final order is made by the competent domestic investigating authority, the ordinary judical remedies before the domestic courts would continue to be available to private parties as they are now".

The Binational Panel will apply the same standard of judicial review as used in the respective jurisdictions prior to the signing of the Agreement. In Canada, the grounds for judicial review of a decision of the Canadian Import Tribunal (as set out in section 28 of the Federal Court Act) are: (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction, (b) erred in law in making its decision, whether or not the error appears on the face of the record, (c) based its decision on an erroneous finding of fact that it made in a perverse or capricious manner without regard for the material before it.

The decision of a Binational Panel is binding on the Parties and their investigating authorities. The Panel may uphold or remand the

decision to the relevant investigating authority for action not inconsistent with such decision.

COMPOSITION OF PANEL — Prior to the entry into force of the Agreement, Canada and the U.S. would agree on a roster of possible Panelists composed equally of candidates suggested by each country. A Panel is composed of five members, two appointed by each country from an agreed roster. The fifth panelist would be selected by agreement of both countries and should no agreement be reached, the fifth panelist will be drawn by lot from the roster. It is desirable that the members of the Binational Panels render non-political decisions with the goal of being loyal to the FTA system rather than to the country that appointed them. However, the Binational Panel procedures provide for pre-emptory strikes of panelists chosen by one of the Parties. This provision suggests that the Parties anticipate certain Panelists will act politically and in the interest of the country they represent. Questions that arise about the roster are who will be appointed to the roster (judges, lawyers, economists?) and how many panelists will be listed on the roster?

RIGHTS OF PRIVATE LITIGANTS TO APPEAR BEFORE PANEL — It is to be noted that the judicial review powers of a Binational Panel can only be invoked by the governments of Canada or the United States and not by private persons or corporations. Further, any representations to be made to the Binational Panel will be only those of the Canadian and U.S. governments.

An important question that arises is whether the FTA can deprive Canadian producers, importers or exporters of a judicial review remedy should they disagree with a decision of the Canadian Import Tribunal? Is such a procedure in accordance with the principles of fundamental justice as required by section 7 of the Canadian Charter of Rights and Freedoms or does it infringe the equality provisions of section 15 of the Charter? Can a party to a Canadian Import Tribunal decision be prevented from seeking judicial review of that decision in the superior courts of the provinces?

Canadian producers and importers or exporters should not be required to rely upon the Canadian government to adequately represent their interests before a Binational Panel in that the interests of the government and private parties to an antidumping or countervail case will not necessarily be the same. The government will have import policy considerations in mind which could limit the scope of the representations the government will make to the Binational Panel. Further, it is the Canadian producer and the importer/exporter who are the parties during a Canadian Import Tribunal proceeding; the government is not a party to that proceeding. Accordingly, why should the government prevent those parties from seeking a judicial review of that decision that those parties went to great expense (in terms of dollars and executive time) to obtain? The elimination of the judicial review remedy is most unfair.

Other questions that arise is to what extent will the Binational Panels follow previous decisions of the Federal Court of Appeal or the U.S. Court of International Trade? To what extent will the Binational Panels follow their own decisions or those of the Canada–U.S. Trade Commission? Can we expect uniformity of decisions from the Binational Panels? How politicized will this judicial review mechanism become and is such politicization desirable at the judicial review level or for that matter at any level of an antidumping or countervail investigation? It therefore remains to be seen whether Canadian producers and importers/exporters will be better served by the Binational Panel process of judicial review.

¶1960 Canada–United States Trade Commission

The Agreement establishes a Canada-United States Commission to supervise its implementation, to resolve disputes that may arise over its interpretation and application, and to consider any matter that may affect the operation of the Agreement. It is composed of representatives of both countries and its chairmanship alternates from year to year between each country. It is provided that all decisions of the Commission shall be taken by consensus. In its dispute settlement role, the Commission deals with disputes arising out of all matters except antidumping and countervailing laws and financial services.

The procedure provides that when an issue arises, there must first be consultation, and if the dispute is not resolved, then the matter may be referred to the Commission. If the matter cannot be resolved by the Commission, then the issue can be referred to a panel of experts either for binding arbitration or for non-binding resolution. If the ruling or resolution, as the case may be, is not implemented, then the Agreement contemplates suspension of benefits and possible retaliation.

Since either country may, after notification and consultation, request a meeting of the Commission and, if no agreement is reached, invoke the dispute settlement procedure when it considers that any proposed or actual legislation, regulation or governmental procedure or practice might materially affect the operation of the Agreement, an important issue is whether the legislatures of the Canadian provinces would be subject to this procedure and, if so, how the Agreement could be enforced as against them in the absence of their concurrence.

¶1970 Safeguards

The FTA contemplates future emergency measures to remedy serious injury to domestic production caused by fairly traded imports (i.e., imports that have not been dumped or subsidized). The Parties have agreed to a two track system for safeguard actions: (a) bilateral, with respect to possible serious economic injury arising as a result of the elimination and reduction of duties under the FTA; and (b) multilateral

or global, with respect to the treatment of each party in an emergency action in relation to imports pursuant to GATT Article XIX.

The "bilateral" safeguard mechanism permits either party to suspend the reduction of any duty, increase it to the lesser of current MFN or pre-FTA levels or, if applicable, pre-FTA seasonal rates. Actions are limited to a maximum duration of three years, may be triggered only once with respect to a particular commodity and are to terminate with the expiry of the transition period, except with the specific consent of the parties. Mutually agreed compensation shall be provided to the exporting Party or, in the absence of any compensation, the exporting party may take action of equivalent effect. These provisions for bilateral emergency measures appear geared toward the anticipation and channelling of minor trade wars in particular economic sectors which may erupt as a by-product of implementing the FTA in both countries. In relation to particular industries and markets it provides for the management rather than the elimination of conflict and, perhaps more to the point, appears to preserve the autonomy of each Party to address specific economic ills in the context of a transitional Agreement.

The "multilateral" or "global" track appears intended to be more permanent in nature in that its main purpose is to preserve the rights of each Party to exercise its rights to emergency measures under the GATT in relation to imports of particular products. GATT Article XIX is essentially a *force majeure* or escape clause to cover unforeseen circumstances, which allows a GATT Contracting Party to protect itself through temporary measures otherwise contrary to GATT. The global track is intended to exempt each Party from GATT Article XIX action by the other Party unless imports from that Party are substantial and are contributing importantly to the serious injury or threat thereof caused by imports. The FTA will seek to define "substantial" as meaning something more than 5 to 10% of total imports in most cases. "Contribute importantly" means an important cause but not necessarily the most important cause of injury from imports.

An additional safeguard in cases where a Party is initially exempted from GATT Article XIX action allows the other Party to subsequently include the exempted Party in cases where there has been an apparent "surge" of imports from the exempted Party undermining the emergency action. "Surge" is defined to mean a significant increase in imports over the trend for a reasonable recent base period for which data are available.

Under both the "bilateral" and "global" tracks the FTA contemplates notification and consultation prior to any action and subsequent compensation by mutual agreement. Agreed dispute settlement provisions will apply *post facto* on whether the conditions for taking safeguard action under the FTA are met, whether the action taken is consistent with the provisions of the Agreement, and in relation to disputes on the adequacy of compensation, or whether any responsive action was exces-

sive. Each Party may request consultations about safeguard measures and if the Parties fail to resolve the dispute through consultations either Party may request a meeting of the Commission and if the matter cannot be resolved by the Commission the dispute is referred to binding arbitration.

¶1980 Referrals of Matters From Judicial Or Administrative Proceedings

In the event an issue of interpretation of the Agreement arises in any domestic or administrative proceeding of either country, or if a court or administrative body solicits the views of either or both countries, the countries shall endeavour to arrive at an agreed position on the proper interpretation of the applicable provisions, if any, of the Agreement.

The country in whose territory the court or administrative body is located shall submit any agreed interpretation to the court or administrative body in accordance with the rules of that forum.

If the countries are unable to reach agreement on the proper interpretation of the provision of the Agreement at issue, either country may submit its own views to the court or administrative body in accordance with the rules of that forum.

¶2000 Conclusion

The foregoing review of the FTA is based upon the essential elements of the Agreement released by the Canadian and U.S. Governments. The elements of the FTA will be translated into a full text by the negotiating teams during the month of October. Many of the details of the Agreement are therefore not available to the authors to date. For instance, the elements of the Agreement do not deal with the termination of the Agreement. The text of the FTA is expected to address this issue and allow each Party to terminate the FTA upon one year's notice.

The FTA is not the solution to all of the trading problems between Canada and the U.S. The FTA contemplates that there will be further negotiations on the harmonization of trade remedies which, if unsuccessful, could trigger the termination of the Agreement. Also the FTA provides for a scrutiny mechanism of trade measures which could lead to termination of the Agreement if remedial measures are not taken.

As noted earlier, decisions of the Canada–U.S. Trade Commission, which oversees the implementation of the majority of the Agreement, are to be by consensus, and if no acceptable solution is found or implemented, can lead to retaliation. It remains to be seen whether the long-term benefits of the Agreement will outweigh some of the concessions made by Canada in the energy, investment and agricultural areas. It also remains to be seen whether the gains by industries which are expected to thrive as a result of the reduction of customs duties and better access to

the U.S. market will be sufficient to outweigh the losses of those who will suffer and in particular whether new employment opportunities will be sufficient to compensate for the loss of employment in other areas.

On the positive side, the Agreement, if adopted, will serve to provide a better focus for Canada–U.S. trade relations and will provide a variety of mechanisms such as Binational Panels, working groups, panels of experts, and the Canada–U.S. Trade Commission, which will more effectively channel and constrain protectionist behavior in both countries. The weakness of the FTA is that U.S. trade remedies remain unchanged for five to seven years and the dispute settlement mechanisms do not provide for an effective enforcement procedure. Nevertheless, political behavior contrary to decisions of the various dispute settlement mechanisms will be difficult to justify.

The FTA is an historic and far-reaching document that will be the subject of considerable debate in Canada and the U.S. during the months leading to its implementation on January 1, 1989. Although it is too early to determine the full impact of the FTA upon Canada's trading relationship with the United States there is no doubt that the Agreement will change Canada's trading relationship with the United States and will affect Canada's trading relationships with other trading nations.

U.S. Documents

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON 20506

October 8, 1987
(Revised)

SUMMARY OF THE AGREEMENTS

Tariffs

The primary objective of the FTA is the eventual elimination of tariff and non-tariff trade barriers. The agreement will eliminate bilateral tariffs within 10 years, beginning January 1, 1989. Products have been assigned to one of three categories for purposes of eliminating duties: (1) immediate, (2) five-years (20 percent cut per year), and (3) ten-years (10 percent cut per year). In addition, an accelerator clause is included which will permit industries to request faster tariff staging on commodities, subject to mutual agreement on each side of the border.

Agriculture

In a period of increasing protectionist pressure, the two countries have been able to agree to a number of liberalizing policies for agricultural trade. The two sides have agreed to a comprehensive package that will eliminate all agricultural tariffs within 10 years. The agreement provides more access to the Canadian market for U.S. horticultural products; conditionally eliminates the Canadian import licenses for U.S. wheat, barley, oats and grain products; and liberalizes the Canadian import quotas for poultry, poultry products and eggs. Also, the agreement removes the Canadian transportation subsidies that are paid under the Western Grain Transportation Act for products moving through western Canadian ports to U.S. markets. The two countries will exempt each other from their respective meat import laws. Both sides agreed that their primary goal with respect to agricultural subsidies is to achieve, on a global basis, the elimination of all subsidies which distort agricultural

trade and agreed to work together to achieve this goal, including working together through the negotiations of the Uruguay Round.

Alcoholic Beverages

U.S. wine and distilled spirits industries have been restricted in access to the Canadian market because of Canada's discriminatory practices affecting the pricing, distribution and sale of these products. Under this agreement U.S. producers will be able to compete in the Canadian market on a more equal footing. In particular, Canada's discriminatory pricing system will be phased out to eliminate discriminatory aspects. U.S. producers will also gain increased access to the distribution and marketing networks.

Energy

Free and open energy trade is an essential component of the FTA because it enhances the energy security and increases the industrial competitiveness of both countries. There is broad agreement to assure the freest possible bilateral trade in energy, including nondiscriminatory access for the United States to Canadian energy supplies and secure market access for Canadian energy exports to the United States, based on several provisions.

Both sides have agreed to prohibit restrictions on imports or exports, including quantitative restrictions, taxes, minimum import or export price requirements or any other equivalent measure, subject to very limited exceptions. They will consult on energy regulatory actions which would directly result in discrimination inconsistent with the principles of the FTA.

With respect to existing measures, Canada has agreed to eliminate several practices which discriminate against energy exports to the U.S., and the U.S. has agreed to eliminate various import restrictions and to allow Canada access to oil from Alaska's North Slope, subject to certain conditions.

Automotive Industry

To enhance and strengthen the competitiveness of the North American automobile industry — representing over one-third and $46 billion of our bilateral trade — the agreement provides for:

- the immediate elimination of Canada's export based duty remission program (tariff subsidies linked to export performance and/or local production) and the phased elimination of local production based schemes, all of which distort trade and investment patterns;
- the elimination of all tariffs over 5-10 years;
- the elimination of the Canadian embargo on used cars;

- a new 50 percent North American (U.S. and Canada) rule of origin based on direct cost of manufacturing, to stimulate increased use of U.S. and Canadian automotive parts and materials; and
- retention of Auto Pact benefits for current participants only (mainly Chrysler, Ford and General Motors), to ensure that no new firms may receive Pact or Pact-like benefits, such as duty free access to parts or vehicles from Third countries.

The agreement also provides for creation of a Blue Ribbon Panel to assess the state of the North American automotive industry and to propose public policy measures and private initiatives to improve its competitiveness in domestic and foreign markets.

Services

It is important to assure that an FTA provides an open, competitive market for trade in services as well as trade in goods. The agreement establishes the very first international understanding of a comprehensive nature over the services industries under which each side will provide treatment to each other's citizens that is no less favorable than that granted to its own citizens with respect to all new measures affecting services. It provides the right of establishment, the right to cross-border sales, and disciplines on public monopolies. In addition, the agreement provides separate undertakings covering enhanced telecommunications and computer services, tourism, and architects, as well as an annex clarifying the Code's specific applicability to the transportation sectors. The provision of basic telecommunications services, such as long distance telephone services, is not covered by the FTA.

Financial Services

With the growing interdependence of the international economy, liberalization and internationalization of financial markets have become an important commercial issue. Under the agreement, both nations undertake to eliminate discrimination and improve access and competitive opportunities for financial institutions of the other party consistent with prudential and regulatory requirements.

Investment

An open investment climate is an important element of a free trade arrangement to prevent trade distortions and protect the interests of U.S. investors. Under this agreement, investments will be granted national treatment, with limited grandfathering of existing restrictions by both countries. Under this agreement, Canada commits to make permanent its recent policy of not screening new business investments and it agrees to reduce screening of direct acquisitions significantly. Screening of indirect acquisitions, forced divestitures, and imposition of minimum Canadian equity requirements all will cease. The agreement achieves major

progress in ending the imposition of performance requirements on U.S. investors and on third-country investors when U.S. trade interests would be affected. It provides for fair standards for expropriation and compensation as well as for free transfers of profits and other remittances.

Intellectual Property

Protection of intellectual property is a major necessity in modern economies where creativity and inventiveness advances industrial, social and cultural development. The two sides already provide strong protection in most areas of intellectual property. The two sides agreed to resolve long standing trade irritants in broadcasting, Canada will protect satellite re-transmissions. The parties will work to make their laws more fully compatible and will pursue vigorously efforts in the Uruguay Round of multilateral trade negotiations to strengthen and update rules on protection of intellectual property.

Culture

The U.S. recognizes the importance to Canada of maintaining its cultural identity. At the same time however, the U.S. wants to ensure that Canadian cultural policies do not constitute a discriminatory and unnecessary barrier to U.S. trade. Recognizing Canadian sensitivities, the U.S. has agreed that certain cultural areas are not subject to the specific provisions of the agreement. However, the U.S. retains the right to redress any adverse commercial effects of any future cultural measures enacted by Canada. In addition, Canada has agreed to alter a number of practices that discriminate against the U.S. including differential postal rates for U.S. periodicals and elimination of tariffs on printed material and recordings.

Customs

Elimination of tariffs in an FTA creates the potential for products of third countries to be shipped through one of the FTA parties, with little or no processing performed there, to avoid the tariffs of the other FTA party. The agreement provides rules of origin which will prevent such products from obtaining the benefits of FTA tariff elimination. Both sides also agreed to other provisions to ensure that duty drawback, foreign trade zones duty waivers, and other such programs are not used as a conduit for third countries to avoid U.S. tariffs. In addition, the U.S. custom's user fee will be phased out for Canada.

Government Procurement

Restrictive buying practices of national governments can distort trade flows. Under the agreement, the U.S. and Canada will eliminate many "buy national" restrictions by lowering from $171,000 to $25,000 the threshold at which open and competitive procedures, as set out by the GATT Government Procurement Code, must be followed. When the FTA is implemented, all procurements over $25,000 made by entities

covered by the Code will be open to suppliers of Canadian and U.S. products on a non-discriminatory basis.

Personnel Movements

The special trading relationship created by the FTA made it desirable to establish clear procedures to facilitate temporary entry for business travellers. Both countries have agreed to ensure easier border crossing for such persons, including both traders and investors. The agreement also includes special procedures for frequent travellers and those needing to stay for protracted periods, while ensuring border security and protecting indigenous labor and permanent employment.

General Elimination of Import and Export Restrictions

Quantitative restrictions and other similar restrictions often distort trade flows. The elimination of such barriers is essential to an effective FTA. The U.S. and Canada have agreed to remove immediately, or by a timetable, virtually all existing import and export restrictions to trade, and both countries have agreed not to enter into new import or export restrictions except in accordance with the GATT, or as otherwise permitted in the FTA.

Standards

In an FTA, rules are necessary to prevent product standards from being used as a barrier to trade. The agreement allows for standards and regulations, and establishes mechanisms to ensure that these measures do not operate to exclude goods of the other party. The agreement looks to harmonize federal standards-related measures in both countries. Further, product testing facilities and certification bodies need not be located in the other country in order to receive accreditation there. Also agreed was a procedure to resolve longstanding issues related to plywood product standards.

Import Safeguards

U.S. law and GATT rules allow measures to temporarily "safeguard" industries injured by import competition. The FTA establishes special rules that preserve the objectives of the FTA without unduly diminishing the rights of U.S. workers and industries to obtain import relief. If FTA duty reductions cause injury, the pre-agreement duty (or current MFN rate) may be reinstated. Section 201 import relief will still be available to industries injured by global imports except that each side will exclude the other from such other global safeguard actions unless its imports are substantial and are found to "contribute importantly" to the injury. However, if excluded initially, a subsequent import surge could lead to inclusion. As under existing international rules, a party hurt by a safeguard action would have a right to compensation or to take countermeasures. These issues would be subject to binding arbitration in case of dispute.

Dispute Settlement

A mechanism by which both countries can settle disputes is central to an FTA. The agreement sets up a special dispute settlement mechanism for dumping and countervailing duty cases, as discussed below under a separate heading. For disputes that may arise under other provisions of the agreement, there is also a strong and expeditious dispute settlement mechanism. Disputes not resolved in consultations will be automatically referred to arbitration panels, composed of neutral, independent experts in the particular matter under dispute. In all but the most exceptional circumstances, the parties will agree on a settlement based on the panel recommendations. That settlement could be removal of a measure found inconsistent with the agreement, or other compensatory actions, or countermeasures. A party taking action inconsistent with the panel recommendation or other agreed solution will have to justify its action and will risk countermeasures by the other party.

Subsidies and Dumping

The treatment of unfair trade remedies was one of the most sensitive and contentious issues in the negotiations. Both parties have agreed to retain existing national laws and procedures dealing with subsidies and dumping. The U.S. countervailing duty and anti-dumping laws — defined as U.S. statutes, legislative history, regulations, administrative practice, and court decisions — will remain intact and unchanged. Hence, U.S. petitioners will retain all their rights under existing U.S. law, just as Canadian industries will keep their rights under Canadian law.

Both parties agreed, however, that national antidumping and countervailing duty decisions may be appealed to bi-national dispute settlement panels. These panels will be selected generally from rosters of fair and impartial Canadian and American experts. The dispute settlement procedure will replace review by the courts. The panels will review decisions by U.S. and Canadian authorities to ensure that the laws of each country have been faithfully and correctly applied. The panels will apply existing standards of judicial review in the law of the importing country. Accordingly, in the United States, decisions of the Commerce Department and the ITC can be overturned only if they are unsupported by substantial evidence in the administrative record, arbitrary and capricious, or otherwise not in accordance with U.S. law.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON 20506

For Immediate Release October 4, 1987

BACKGROUND ON THE U.S.–CANADA ECONOMIC RELATIONSHIP

- The commercial relationship between the United States and Canada is the largest in the world, encompassing the full range of business activities from sales and purchase of goods and services to investment.

Trade in Goods

- United States exports to Canada in 1986 totaled about $54 billion, or 24 percent of total U.S. exports. The U.S. supplies nearly 70 percent of Canada's imports.
- U.S. imports from Canada in 1986 reached nearly $70 billion, about 78 percent of Canada's total exports and 18 percent of total U.S. imports.
- Between 1980 and 1986, U.S. exports to Canada increased by $14.7 billion, while exports to the rest of the world declined by $13.5 billion. Imports from Canada rose $27 billion compared to an import increase from the world of $99 billion in the same period.
- Motor vehicles account for 36 percent of U.S. imports from Canada. Two-way automotive trade exceeds $46 billion per year.
- Other major imports from Canada include aircraft, telecommunications equipment, electronic components, crude petroleum and products, natural gas, wood and pulp and waste paper.
- Nearly 40 percent of U.S. exports to Canada are composed of automobiles and parts. Other major exports include office machinery and automatic data processing equipment, telecommunications equipment, electronic components, aircraft, professional and scientific instruments, coal and lignite, refined petroleum products, paper, paperboard, newsprint, aluminum and aluminum alloys.
- Bilateral agricultural trade accounts for only three percent, or about $3.5 billion, of two-way trade.
- The Canadian market in the long-term offers significant export opportunities for capital goods and products used in the energy and mining sectors. Also communication and high-tech sectors are important markets for U.S. goods.

Trade in Services

- U.S. service exports have generated continuous surpluses. American exports of services to Canada in 1986 reached $6.6 billion against imports of $4.7 billion for a surplus of $1.9 billion.
- Travel is by far the largest single category in terms of services trade. The United States had a surplus vis-a-vis Canada in the travel sector throughout the 1980s but a deficit of about $250 million was incurred in 1986.
- The United States maintained an overall surplus in services despite the travel deficit with Canada in 1986. The travel deficit was offset by increased surpluses in transportation, fees and royalties and other private services, such as contractor's fees, communications, reinsurance and motion pictures.

Balance of Payments

- The United States has run a merchandise trade deficit with Canada since 1976. Bilateral deficits were significantly expanded by large U.S. imports of automobiles and parts and energy products, while telecommunications and other high technology products aided U.S. export performance.
- Despite a merchandise trade deficit, the U.S. balance of payments current account with Canada remained in surplus until 1983.
- The U.S. merchandise deficit with Canada is largely offset by a surplus in the services account which reached a high of $11.5 billion in 1983.
- 1985 data show a U.S. merchandise deficit with Canada of $15 billion, a services surplus of $9.3 billion, and a current account deficit of $5.7 billion.

Investment

- Total accumulated U.S. direct investment in Canada is $46 billion.
- U.S. investors control about 18 percent of all non-financial industries in Canada, ranging from a high of 64 percent for the transport equipment industry to 2 percent for agriculture, forestry and fishing. Other industries with high levels of U.S. investment are: oil and gas, rubber products, textile mills and chemicals.
- Canadian direct investment in the United States totals $17 billion. Canada ranks fourth behind the United Kingdom, the Netherlands, and Japan as a major investor in the U.S. economy. Investment is dispersed into real estate, petroleum, manufacturing and banking.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON 20506

For Immediate Release October 4, 1987

BACKGROUND ON CHRONOLOGY OF U.S–CANADA NEGOTIATIONS

- In March 1985, President Reagan and Prime Minister Mulroney asked their trade officials to explore ways to reduce and eliminate existing barriers to trade between the United States and Canada and to report back in six months.
- On September 26, 1985, Prime Minister Brian Mulroney formally requested that the United States and Canada explore the potential for negotiating a comprehensive free trade agreement.
- On December 10, 1985, president Reagan formally notified the Senate Finance and House Ways and Means Committees of his intent to enter into bilateral negotiations with Canada using "fast track" provisions.
- On April 23, 1986 the Senate Finance Committee granted "fast track" authority for the U.S.-Canada trade negotiations when a resolution to deny the authority failed on a 10-10 vote.
- The U.S. and Canadian negotiators met for the first time on May 21-22, 1986 in Ottawa.
- President Reagan and Prime Minister Mulroney reiterated their commitment to the trade talks during their meeting in Canada in April 1987. They agreed that a free trade agreement between the two countries would be an opportunity to expand trade, providing benefits for American and Canadian consumers and businesses.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON 20506

For Immediate Release October 4, 1987

BACKGROUND ON FREE TRADE AREAS

A free trade area is a group of two or more countries in which tariffs, non-tariff barriers and other trade distortions are eliminated on most trade.

Authority to Negotiate

Section 102 of the Trade Act of 1974 authorizes the President to negotiate agreements on bilateral trade areas and to have them considered by the Congress on a "fast track" basis.

That authority was scheduled to expire on midnight January 2, 1980 but was extended for another 8 years by the Trade Agreements Act of 1979. As a result, this authority expires at midnight on January 2, 1988.

To begin negotiations for an agreement that would be eligible for fast track consideration several conditions must be met:

- the negotiation must be requested by the foreign country;
- the President must provide advance notice to the House Ways and Means Committee and the Senate Finance Committee, neither of which disapproves the negotiation within 60 legislative days;

Interested parties in the private sector help develop U.S. negotiating objectives through several advisory committees. The committees include representatives from industry, agriculture, labor, consumers, and the general public. These committees report to the President through the Office of the U.S. Trade Representative and the Departments of Agriculture, Commerce and Labor.

The U.S. has already established one free trade area with another country; the agreement establishing the U.S.-Israel free trade area was signed in 1985.

Fast Track Procedures

Once negotiations are underway, several other conditions must be met if the agreement is to be considered under fast track procedures:

- the President is required to consult with Congress;
- the President must notify Congress of his intention to enter into an agreement 90 days before doing so. (Since the authority to have agreements considered under fast track procedures expires at midnight January 2, 1988, the latest date by which the President

could notify Congress of his intention to enter into an agreement was midnight October 3, 1987);

- after entering into an agreement, the President must submit it to Congress, together with a draft implementing bill, a statement of any administrative action proposed to implement the agreement, an explanation of how the bill or agreement changes or affects existing law, and a statement of reasons why the agreement serves the interests of U.S. commerce.

The implementing bill is introduced in both Houses of Congress on the day it is submitted by Congress and referred to the committees of jurisdiction. The Administration must consult with all the committees having jurisdiction over issues addressed by the agreement on the free trade area. The principal committees with jurisdiction are the House Ways and Means and Senate Finance Committees. The bill could also be referred to the Energy, Agriculture, Commerce, Foreign Affairs and Banking committees. The committees have 45 legislative days in which to report the bill; they are discharged automatically from further consideration after that period.

Each House votes on the bill within 15 legislative days after the measure has been received from the committees. Amendments are not in order. A simple majority of each House is required for acceptance.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release October 4, 1987

Statement by the President

Last night, I notified the Congress that I intend to enter into a free trade agreement with Canada on January 2, 1988, contingent upon a successful completion of the negotiations. The essential elements have been agreed to and we expect that final details can be hammered out in the next few days.

This historic agreement will strengthen both our economies and over time create thousands of jobs in both countries. It will serve as an important model for other nations seeking to improve their trading relationships. In many respects it will also serve as a model for the Uruguay Round of multilateral trade negotiations.

The people of the United States and Canada have had a long and harmonious friendship that is the envy of the world. Now, in addition to sharing the world's longest undefended border, we will share membership in the world's largest free trade area.

This agreement will provide enormous benefits for the United States. It will remove all Canadian tariffs, secure improved access to Canada's market for our manufacturing, agriculture, high technology and financial sectors, and improve our security through additional access to Canadian energy supplies. We have also gained important investment opportunities in Canada and resolved many vexing trade issues.

I congratulate Prime Minister Mulroney for his courage and foresight in seeking this free trade area. It will strengthen the bonds between our nations and improve the economic performance and competitiveness of both countries. The agreement will provide an enduring legacy of which both nations can be proud.

Canadian Documents

ELEMENTS OF A CANADA-UNITED STATES FREE TRADE AGREEMENT
SYNOPSIS

TRADE: Securing Canada's Future

ELEMENTS OF A CANADA-UNITED STATES FREE TRADE AGREEMENT

SYNOPSIS

On October 3, 1987, Canada and the United States agreed in principle on the elements to be included in a free-trade agreement. These elements will be transformed into the actual legal text of the Agreement over the course of the next three weeks. A synopsis of the elements that have been agreed follows.

Objectives and Scope

The two governments have agreed to establish a free-trade area agreement between them pursuant to the provisions of Article XXIV of the General Agreement on Tariffs and Trade with the following objectives:

to eliminate barriers to trade in goods and services;

- to establish predictable rules, secure access and fair competition;
- to reduce significantly impediments to cross-border investment;
- to establish effective procedures and institutions for the joint administration of the Agreement and the resolution of disputes; and
- to lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of the Agreement.

The agreement will cover trade in goods and services and investment and involve federal, state and provincial measures.

Tariffs and Rules of Origin

The two governments have agreed to remove all tariffs by January 1, 1998. Tariffs will be eliminated on the basis of three formulas:

- some will be eliminated on the agreement entering into force on January 1, 1989;

- some will be eliminated in five equal steps, most starting on January 1, 1989; and,

- some will be eliminated in ten steps, most starting on January 1, 1989.

Goods which originate in Canada and the United States will qualify for the new tariff treatment. For goods incorporating offshore raw materials or components, it has been agreed that goods qualify for treatment as either of U.S. or Canadian origin if they have been sufficiently changed either in Canada or the United States to be classified differently than the raw materials or components from which they are made. The governments will use the tariff classification of the Harmonized System now being implemented by both governments. In certain cases, goods will need to incur a certain percentage of manufacturing cost in the country of origin.

Customs Matters

The two governments have agreed that:

- duty drawbacks and similar programs on goods imported from other countries, including through U.S. Foreign Trade Zones, will be eliminated for bilateral trade after January 1, 1994;

- neither party will introduce new duty waivers tied to specific performance requirements. All existing duty waivers will be eliminated by January 1, 1998; and,

- customs user fees will be phased out on bilateral trade by January 1, 1993.

Quantitative Restrictions

Both parties have agreed to maintain the basic rules of GATT to regulate quantitative restrictions on imports or exports. Existing quantitative restrictions will be eliminated, either immediately or according to a timetable, or grandfathered.

Trade Remedies and Dispute Settlement

The two governments have agreed to a unique dispute settlement mechanism which guarantees the impartial application of their respective anti-dumping and countervailing duty laws and other aspects of trade remedy law. Either goverment may seek a review of an antidumping or countervailing duty determination by a bilateral panel with binding powers. Concurrently, the two governments will work towards establishing a new regime to address problems of dumping and subsidization to come into effect at the end of the seventh year.

Additionally, the two governments have agreed that changes in anti-dumping and countervailing duty legislation apply to each other only following consultation and if specifically provided for in the new legislation. Moreover, either government may ask a bilateral panel to review such changes in light of the object and purpose of the agreement and their rights and obligations under the GATT Antidumping and Subsidies Codes. Should a panel recommend modifications, the parties will consult on such modifications. Failure to reach agreement gives the other party the right to take comparable legislative or equivalent executive action or terminate the agreement.

Emergency Measures

The two governments have agreed to more stringent standards for the application of emergency safeguards (quotas or sucharges on imports causing serious injury) to bilateral trade. Except where the other Paty is the major source of injury or is contributing importantly to the injury, they agree to exempt each other from safeguard measures. Bilaterally applied emergency measures are subject to compensation and protection against reductions below the trend line of previous bilateral trade.

Government Procurement

The two governments have agreed to expand access to purchases by governments by building on the GATT government procurement code. They have agreed to improved procedures for trade between them and to extend coverage of the Code to purchases between $25,000 U.S. and $171,000 U.S., the current threshold for coverage under the GATT Code.

National Treatment

The two governments have agreed to build on the GATT provision requiring that they will extend the same treatment to each other's goods as regards internal regulatory and fiscal requirments.

Technical Standards

The two governments have agreed to build on the GATT Standards Code. They will seek to harmonize federal standards and encourage harmonization at the state and provincial and private level.

Trade in Agricultural Goods

The two governments have agreed to a package of trade liberalizing measures for trade in agriculture including:

- eliminating all tariffs (but allowing Canada to restore temporarily tariffs on fresh fruits and vegetables for a twenty-year period under depressed price conditions);
- exempting each other from restrictions under their respective meat import laws.
- prohibition of export subsidies on bilateral trade;
- an exemption for Canada from any future quantitative import restrictions on products containing 10% or less sweetner and on grains and grain products; and,
- conditional elimination of Canadian import licences for wheat, barley and oats and their products and eliminating Canadian Western Grain Transportation subsidies on exports to the United States.

They will work with each other bilaterally and in the GATT to further improve and enhance trade in agriculture.

Wine and Distilled Spirits

The two governments have agreed to reduce barriers to trade in wine and distilled spirits. Beer is not covered in the agreement. They will eliminate discriminatory markups for spirits immediately and for wine over a period of seven

years. All other discriminatory pricing measures will be eliminated immediately. They will also reduce discrimination in listing practices and extend national treatment to future changes in distribution systems.

Trade in Energy

They have agreed to eliminate a range of specific barriers to trade in energy (oil, gas, coal, electricity, uranium), including:

- all U.S. restrictions on enrichment of Canadian uranium; and,
- the embargo on exports of Alaskan crude oil up to 50,000 barrels a day.

They have also agreed to ease regulatory restrictions on trade in energy products.

Automotive Trade

The two governments agreed to leave the Auto Pact intact. In order to provide for improved conditions of trade in automotive products, they have agreed:

- to eliminate all tariffs on automotive products within ten years;
- all vehicles will be subject to a special rule of origin creating new opportunities for production and employment in North America;
- to eliminate the duty remission programs by 1996; and,
- to limit the duty-free entry privileges of the Auto Pact to current participants.

They have also agreed to establish a blue-ribbon panel to advise the two governments on automotive issues.

Trade in Services

The agreement will provide, for the first time, a set of disciplines covering a large number of service sectors. The agreement will provide that the two governments in future will extend the principles of national

treatment, right of commercial presence and right of establishment to each other's providers of services. Additional sectoral annexes will clarify this general obligation with respect to transportation, enhanced telecommunications and computer services, tourism and architecture.

Temporary Entry for Business Purposes

The agreement will provide for improved and easier border crossing by business persons trading in goods and services.

Financial Services

The two governments have undertaken to grandfather existing privileges in each other's market and improve access and competition for financial insitutions consistent with prudential and regulatory requirements. Additionally, Canadian banks in the United States will be able to underwrite Canadian government securities. Canadian financial institutions will be treated the same as U.S. banks with respect to any changes in the Glass-Steagall Act governing the relationship between the banking and securities industries.

Investment

The two governments have agreed in future to liberalize the treatment given to each other's investors with respect to:

- the establishment of new firms;
- the acquisition of existing firms; and,
- the conduct, operation and sale of established firms.

Both governments retain the right to maintain existing measures not in conformity with these principles.

Canada retains the right to review the acquisition of firms in Canada by U.S. investors, but has agreed to phase in higher threshold levels for direct acquisition. The review of indirect acquisition will be phased out.

Cultural Industries

The government retains its full capacity to support cultural industries in Canada (film and video, music and sound recording, publishing and cable and broadcasting).

Institutional Provisions

The agreement will establish a bilateral Commission at the ministerial level to supervise the implementation and administration of the agreement.

Notification and Consultation

The agreement will provide mandatory notification and consultation procedures to ensure the smooth operation of the agreement and to encourage the avoidance of disputes.

Dispute Settlement for Matters Other than Trade Remedies

The two governments have agreed to binational panel procedures at the instance of either party to make recommendations for the settlement of disputes regarding the interpretation and application of the agreement. By mutual agreement, they may also refer such disputes to binding interpretation.

PRELIMINARY TRANSCRIPT

CANADA-U.S. FREE TRADE AGREEMENT

ELEMENTS OF THE AGREEMENT

TRADE: Securing Canada's Future

EXPLANATORY NOTE

The Elements of the Agreement contained in this book have been agreed to by the two parties to the Agreement but do not constitute the text of the Agreement.

These Elements of the Agreement are the agreed basis of the Agreement and will be translated into a legal document by the negotiating teams.

It is expected this process will take approximately three weeks. Until then, no text of the Agreement exists.

OBJECTIVES

The objectives of this Agreement, as elaborated more specifically in the provisions of this Agreement, are to:

(a) eliminate barriers to trade in goods and services between the territories of the Parties;

(b) facilitate conditions of fair competition within the Free Trade Area;

(c) significantly expand liberalization of conditions for investment within the Free Trade Area;

(d) establish effective procedures for the joint administration of the Agreement and the resolution of disputes;

(e) lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of the Agreement.

U.S.-CANADA FREE-TRADE AGREEMENT

Elements of the Agreement

Agriculture

Canada and the United States have agreed to eliminate all agricultural tariffs within 10 years. With respect to fresh fruits and vegetables, a conditional snapback to the MFN rate of duty would be allowed for 20 years.

The United States has agreed to exempt from quantitative restrictions imports from Canada of sweetener-containing products having 10 percent or less sweetener by dry weight.

Canada has agreed to eliminate import licenses for wheat, barley, oats and products thereof, as soon as the support levels for these products in both countries are equivalent, determined on the basis of a technical calculation. For oats and barley, this would likely be upon entry into force of the Agreement.

The Parties have agreed not to impose or reimpose any quantitative restrictions on grain and grain products so long as there are no significant changes in the grain support programs in each country that would lead to a significant change in imports from the other Party.

Canada has agreed to eliminate its Western Grain Transportation Act subsidies on agricultural products shipped to the United States through Western Canadian ports. This will affect primarily Canadian exports of millfeeds and rapeseed meal to the U.S. Pacific Northwest.

Canada has agreed to increase its global import quotas for poultry, eggs and products thereof to the annual average level of actual shipments during the past five years.

The Parties have agreed to exempt each other from import restrictions imposed under their respective meat import laws.

The Parties have agreed not to use direct export subsidies on agricultural products shipped to each other.

Each Party has agreed to take into account the export interests of the other Party in the use of any export subsidy on agricultural goods exported to third countries, recognizing that such subsidies may have prejudicial effects on the export interests of the other Party.

The Parties have agreed that their primary goal with respect to agricultural subsidies is to achieve, on a global basis, the elimination of all subsidies which distort agricultural trade and agree to work together to achieve this goal, including through multilateral trade negotiations such as the Uruguay Round.

The Parties have agreed to minimize technical barriers on agricultural, food and beverage goods. This involves both countries' regulatory authorities cooperating to reduce technical differences which interfere with trade, while still protecting human, animal and plant health.

The Parties have agreed to consult semi-annually on agricultural issues. The Parties have also agreed to consult on agricultural issues at such other times as mutually agreed.

The Parties retain their GATT rights with respect to issues not otherwise provided for in this Agreement.

Automotive Trade

The Parties have agreed to:

- eliminate original equipment tariffs over 10 years, eliminate tariffs on tires over 10 years, and eliminate aftermarket parts tariffs over five years;
- phase-out the embargo on the import of used cars into Canada over five years;
- terminate duty waivers linked to exports to the other Party upon implementation of the Agreement;
- not grant other automotive duty waivers and not expand existing arrangements; and
- change duty drawback and Foreign Trade Zones consistent with the general provisions of the Agreement.

Canada has agreed to terminate production-based duty waivers by 1996 or according to the schedules negotiated between the companies concerned and the Government of Canada, whichever is sooner.

Canada has agreed that no additional companies producing vehicles in Canada may qualify as eligible manufacturers under provisions similar to those in the Auto Pact. The United States undertakes not to introduce comparable programs without consultations.

The Parties have agreed to apply a new rule of origin for vehicles traded under the provisions of the FTA Agreement based on 50 percent of direct cost of manufacturing.

The Parties recognize the continued importance of automotive trade and production for the respective economies of the two countries and the need to ensure that the industry in both countries should prosper in the future. As the worldwide industry is evolving very rapidly, the two Governments have agreed to establish a Blue Ribbon Panel to assess the state of the North American industry and to propose public policy measures and private initiatives to improve its competitiveness in domestic and foreign markets. The Governments of the United States and Canada also agreed to cooperate in the Uruguay Round of multilateral trade negotiations to create new export opportunities for North American automotive products.

Canada and the United States each shall endeavor to administer the Auto Pact in the best interests of employment and production in both countries.

Cultural Industries

1. Cultural industries as defined in Annex A are exempt from the provisions of this Agreement.

2. Notwithstanding any other provision of this Agreement, a Party may take measures of equivalent commercial effect in response to actions that would have been inconsistent with this Agreement but for paragraph 1.

Annex A - Cultural Industries

"Cultural industry" means an enterprise engaged in any of the following activities:

a) the publication, distribution, or sale of books, magazines, periodicals, or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

b) the production, distribution, sale or exhibition of film or video recordings;

c) the production, distribution, sale or exhibition of audio or video music recordings;

d) the publication, distribution, sale of music in print or machine readable form; or

e) radio communication in which the transmissions are intended for direct reception by the general public, including all radio, television and cable television broadcasting undertakings and all satellite programming and broadcast network services.

Customs

The rule of origin for eligibility for tariff treatment under the Agreement for articles incorporating non-party materials, will be based on specified changes in tariff classification under the Harmonized System. Articles imported under one tariff classification must be sufficiently processed in the importing country to be classified on importation into the other Party in another tariff classification. Precise rules, by tariff line, specify the necessary change. Certain imported articles are also required to incur a specified percentage of their manufacturing costs in one or both of the Parties. These rules may be amended by consent of both Parties in light of their consultations with industry.

Apparel made from third-country fabric above a specified level (with a sublevel for apparel made from third-country wool) will be subject to the MFN tariff. Apparel made from fabric formed in one of the Parties shall receive the Agreement's tariff treatment.

Duty drawback (other than on goods exported in the same condition in which they were imported) for bilateral trade will end five years after implementation of the Agreement. At that time, duty drawback may be extended as mutually agreed. The Parties have agreed to an indefinite extension for citrus products and for apparel made from third-country fabric and subject to the MFN tariff.

Five years after implementation, goods produced under programs that confer benefits similar to duty drawback (e.g. Canada's inward processing program, U.S. Foreign Trade Zones) and exported to the other Party shall be treated for duty purposes, upon exportation, as if they were entered for consumption in the producing country. This means, in the case of U.S. Foreign Trade

Zones, that goods made from third-country components in a zone will be subject to duty on the value of those third-country components at either the finished-good or the component tariff rate.

Except for duty waivers applying to the automotive industry (handled separately), existing duty waivers linked to performance requirements will end within 10 years of implementation of the Agreement, and no new duty waivers linked to performance requirements will be entered into after June 30, 1988, or the date Congress ratifies the Agreement, whichever is later.

When a Party grants a company-specific duty waiver to a designated firm or individual, it will, if the waiver hurts the commercial interests of the other Party, either make the duty waiver generally available or end it. This provision is intended to ensure that company-specific duty waivers are not used in a manner that distorts trade and investment.

Customs user fees assessed on merchandise of the other Party will be phased out within five years of implementation.

Importers will base their claims for tariff treatment under the Agreement on a written declaration from the exporter that the good being imported meets the rule of origin of the Agreement. Upon request, exporters will be required to supply this written declaration to the Customs Administration in the country of exportation. False declarations by either the exporter or the importer will be subject to penalties imposed by their respective governments.

Energy

There is broad agreement to assure the freest possible bilateral trade in energy, including non-discriminatory access for the United States to Canadian energy supplies and secure market access for Canadian energy exports to the United States.

Both sides have agreed to prohibit restrictions on imports or exports, including quantitative restrictions, taxes, minimum import or export price requirements or any other equivalent measure, subject to very limited exceptions: (1) short supply or prevention of exhaustion of a finite energy resource, but only if the exporting Party provides proportional access to the diminished supply and does not otherwise discriminate on price; or (2) national security, to supply military establishment or critical defense contracts, respond to a situation of armed conflict, prevent nuclear proliferation or respond to direct threats to supply of nuclear materials for defense purposes.

Parties will consult on energy regulatory actions which could directly result in discrimination inconsistent with the principles of the Agreement.

With respect to existing measures, Canada has agreed to: (1) limit the application of its "surplus test" for energy exports to a monitoring function, with any possible future restriction subject to the proportionality and non-discriminatory pricing conditions above; (2) eliminate its requirement that uranium exports be upgraded to the maximum extent possible in Canada prior to export; and (3) eliminate a discriminatory price test on electricity exports. The United States has agreed to: (1) eliminate the legislative restriction on enrichment of Canadian uranium; and (2) allow exports of Alaskan oil to Canada, up to 50 thousand barrels per day on an annual average basis, subject to a condition that such oil be transported from Alaska in U.S. flag vessels.

Both sides have agreed to: (1) support continuing Bonneville Power-B.C. Hydro negotiations, encouraging parties to work out their differences consistent with the objectives and principles of the Agreement; and (2) allow existing or future incentives for oil and gas exploration, development and related activities in order to maintain the reserve base for these energy resources.

Financial Services

Canada Agrees:

1. Canada agrees that U.S. nationals and U.S.-controlled companies will receive treatment as favorable as persons of Canada with respect to the ability to purchase shares of Canadian-controlled financial institutions.

2. Canada agrees to exempt U.S. bank subsidiaries, individually and collectively, from the limitations on the total domestic assets of foreign bank subsidiaries in Canada.

3. Canada agrees not to use review powers governing the entry of U.S.-controlled financial institutions in a manner inconsistent with the aims of this Agreement.

4. Each Party agrees that this Agreement shall not be construed as representing the mutual satisfaction of the Parties concerning the treatment of their respective financial institutions; accordingly, Canada agrees, subject to the U.S.'s commitment to consult and to

liberalize further the rules governing its markets and to extend the benefits of such liberalization to Canadian-controlled financial institutions established under the laws of the United States, to continue to provide, subject to normal regulatory and prudential considerations, U.S.-controlled financial institutions established under the laws of Canada with the rights and privileges they now have in the Canadian market as a result of existing laws, regulations, practices and stated policies of the Canadian Government.

U.S. Agrees:

1. To the extent that domestic and foreign banks are permitted to engage in the dealing in, underwriting, and purchasing of debt obligations backed by the full faith and credit of the United States, its states or political subdivisions, the United States agrees to permit domestic and foreign banks to engage in the dealing in, underwriting, and purchasing of debt obligations backed by the Canadian equivalent of the "full faith and credit" of Canada, its provinces or political subdivisions.

2. The United States agrees not to adopt or apply any measure that would accord treatment less favorable to persons of the other Party than that accorded under Sections 5 and 8 of the International Banking Act of 1978.

3. The United States agrees to accord Canadian financial institutions the same treatment as that accorded U.S. financial institutions with respect to amendments to the Glass-Steagall Act and associated legislation and resulting amendments to regulations and administrative practices.

4. Each Party agrees that this Agreement shall not be construed as representing the mutual satisfaction of the Parties concerning the treatment of their respective financial institutions; accordingly, the U.S. agrees, subject to Canada's commitment to consult and to liberalize further the rules governing its markets and to extend the benefits of such liberalization to U.S.-controlled financial institutions established under the laws of Canada, to continue to provide, subject to normal regulatory and prudential considerations, Canadian-controlled financial institutions established under the laws of the United States with the rights and privileges they now have in the U.S. market as a result of existing laws, regulations, practices and stated policies of the U.S. Government.

Government Procurement

The United States and Canada have agreed to eliminate buy-national restrictions on procurements of covered goods by Code-covered entities below the threshold of the Government Procurement Code (the Code).

Under the text of the Agreement, the procedures used for these purchases will build on the open and competitive principles and procedures of the Code. In addition, the text of the Agreement improves upon Code procedures by establishing a common rule of origin, establishing an effective challenge system for all potential suppliers, and improving transparency, particularly for procurements which are single-tendered.

When the Agreement is implemented, the procurement obligations of the Code will be extended to cover procurements over an administrative threshold of U.S. $25,000 in each country. These procurements will be open to suppliers of Canadian and/or U.S. products on a non-discriminatory basis. The value of procurement opportunities to be opened by this Agreement is estimated at approximately U.S. $3 billion of U.S. procurement and about U.S. $0.5 billion of Canadian procurements.

The Parties have agreed that, not later than one year after the renegotiation of the Code, the Parties shall undertake further negotiations to improve and expand the Chapter.

Investment

The Parties agree to provide each other's investors national treatment with respect to the establishment of new businesses, the acquisition of existing businesses, and the conduct, operation and sale of established businesses. More specifically, the Agreement binds the Parties not to adopt policies requiring minimum levels of equity holdings by their nationals in domestic firms controlled by investors of the other Party, or requiring forced divestiture. It also provides for fair standards for expropriation and compensation, as well as for free transfers of profits and other remittances subject only to a standard balance of payments clause.

The Agreement provides that the Parties will not impose export, local content, local sourcing, or import-substitution requirements on each others' investors, and will not place such requirements on third-country investors when any significant impact on U.S.-Canadian trade could result.

The Parties agree that all existing laws, regulations, and published policies and practices not in conformity with any of the obligations described above shall be grandfathered.

The Agreement defines the parameters under which Canada will continue to review U.S. investment in Canada. The Parties agree that the gross asset threshold for the review by Canada of a direct acquisition by a U.S. investor of a Canadian firm shall be as follows:

on the date of the implementation of the Agreement	Cdn$ 25 million
1st anniversary of such date	Cdn$ 50 million
2nd anniversary of such date	Cdn$ 100 million
3rd anniversary of such date	Cdn$ 150 million
4th anniversary of such date forward	Cdn$ 150 million in constant 3rd anniversary year dollars

The Parties further agree that the gross asset threshold for the review of an indirect acquisition by a U.S. investor of a Canadian firm shall be as follows:

on the date of implementation of the Agreement	Cdn$ 100 million
1st anniversary of such date	Cdn$ 250 million
2nd anniversary of such date	Cdn$ 500 million
3rd anniversary of such date forward	no review

Canada also agrees that the thresholds described above will apply to the acquisition by third-country investors of Canadian firms controlled by U.S. investors.

The Parties agree that cultural industries are excluded from the Investment Chapter. However, Canada undertakes that in the event that it requires the divestiture to Canadians of a U.S.-controlled business in a cultural industry as part of the review of an indirect acquisition of such a business, Canada will offer to purchase the business at fair, open market value as determined by an independent, impartial assessment.

All commitments and practices flowing from this Chapter, other than decisions of Canada pursuant to its reviews of investment, will be subject to the Agreement's dispute settlement mechanism. Investors will have the right of access to U.S. and Canadian courts, and may ask their governments to seek redress on their behalf through the dispute settlement mechanism.

Quantitative Restrictions

Both Parties have agreed they will not maintain or introduce import or export restrictions except in accordance with the GATT, or as modified by the Agreement. Concerning imports, exceptions to this rule will only be allowed for traditional GATT Article XX reasons, such as health and safety. With respect to exports, short supply and conservation measures may be taken, but they must provide for the sharing of the resource with the other Party and they may not create price discrimination by other means. The Agreement also contains a commitment to cooperate on the implementation of export controls (for short supply and conservation purposes only) to prevent diversion to third parties.

All existing quantitative restrictions will be eliminated, immediately or by an agreed timetable, or will be grandfathered under the Agreement. These actions include: a phase-out of the Canadian embargo on used automobiles between 1/1/89 and 1/1/93; elimination of the Canadian embargo on used aircraft upon entry into force of the Agreement; elimination of the U.S. embargo on lottery materials on 1/1/93; and retention of the U.S. and Canadian log export restraints and U.S. Jones Act provisions under General Exceptions to the Agreement.

Safeguards

The Parties have agreed to a two-track system for future emergency measures to remedy serious injury caused by imports -- a bilateral track to deal with serious injury from imports resulting from the elimination and reduction of duties under the Agreement, and a global track to address serious injury under GATT Article XIX.

Under the bilateral track, during the transition period, when imports from the other Party alone constitute a substantial cause of serious injury, the importing Party may suspend the reduction of any duty, increase the duty to the lower of the current MFN rate or pre-Agreement levels or to corresponding pre-Agreement seasonal rates. Actions are limited to a period of three years, may only be taken once for any particular good, and except

by mutual consent, shall not have effect beyond the transition period. Mutually agreed compensation shall be provided to the exporting Party, or that Party may take action of equivalent effect.

Under the global track, the Parties retain their Article XIX rights except that a Party shall exclude the other Party from the scope of an Article XIX action unless imports from that Party are substantial and are contributing importantly to the serious injury or threat thereof caused by imports. When a Party is excluded from an Article XIX action, that Party may subsequently be included in the action in the event of a surge in imports of such goods from that Party which undermines the effectiveness of the action. In the event of emergency measures against imports from the other Party, the action may not restrict the imports below the trend of imports over a reasonable recent base period with allowance for growth.

Agreed dispute settlement provisions will apply post facto on whether the conditions for taking safeguard action under the Agreement are met, whether the action taken is consistent with the provisions of the Agreement, and in relation to disputes on the adequacy of compensation, or whether any responsive action was excessive.

There is provision for notification and consultation before any action can be taken under either track and there is provision for mutually agreed compensation under both tracks.

For purposes of this Chapter:

Substantial: means imports from the other Party in the range of five to 10 percent or less of total imports would normally not be considered substantial.

Contribute importantly: means an important cause but not the most important cause of injury from imports.

Surge: means a significant increase in imports over the trend for a reasonable recent base period for which data are available.

Services

The Parties have agreed to complete a final text that lays out a set of disciplines covering a large number of service sectors. Principles of such a text would include national treatment, right of establishment, right of

commercial presence, transparency and dispute settlement, all of which will apply to future laws and regulations governing trade and investment in covered sectors.

Both Parties have agreed to include in the services understanding a provision for addressing future rollbacks in various sectoral areas on a mutually agreed basis.

The Parties will include sectoral annexes clarifying the application of the disciplines to architecture, tourism, and enhanced telecommunications and computer services. Subject to appropriate legal review by both Parties, a similar annex would be included that clarifies the application of the Agreement to future laws and regulations in the transportation sectors.

Both Parties have established specific understandings regarding the temporary entry of business persons and recognized professions and persons engaged in sales or after-sales service functions.

The Parties have agreed to an annex that would ensure the further development of an open and competitive enhanced telecommunications and computer services market by incorporating the following principles:

a) non-discriminatory access to, and use of, the basic telecommunications transport services, including: the lease of local and long-distance telephone services; full period flat rate private-line service; dedicated inter-city voice channels; and public data services for the movement of information including intracorporate communications; the sharing and reselling of basic telecommunications services; and the purchase or lease of terminal equipment;

b) maintenance of existing access for the provision of enhanced telecommunications services through the use of the telecommunications transport network and computer services within and across borders of both Parties;

c) assurance that enhanced service providers do not benefit from unreasonable cross subsidization or other anti-competitive practices from their related monopoly service providers. Appropriate safeguards, such as separate accounting records, sufficient structural separations and disclosure shall be put in place.

The understandings will govern computer services whether or not conveyed over the telecommunications transport network.

Enhanced telecommunications services are services which are more than basic telecommunications services as defined and classified by measures of the regulators of the Parties. Greater precision, including agreed-upon benchmarks, will be included in the definition.

The Parties have agreed to an understanding that recognizes the importance of developing mutually acceptable professional standards and the mutual recognition by the respective licensing authorities of professional architects. This understanding builds on the efforts of the Royal Architectural Institute of Canada and the American Institute of Architects, who are in the process of recommending mutually acceptable standards regarding education, examination, experience, code of ethics, and professional development. We have agreed that upon completion of the Associations' work, we will review the recommendations and encourage adoption of necessary legal changes by the states and provinces leading to mutual recognition by no later than 1990.

Standards

The Parties have agreed on a text which would enhance our mutual rights and obligations under the GATT and the Standards Code.

At the federal level, neither Party will use standards as a barrier to trade. Standards and regulations are allowed where their demonstrable purpose is to protect health and safety, environmental, national security and consumer interests. However, these measures must not operate to exclude goods of the other Party that meet these objectives.

The Parties also agree to harmonize federal standards-related measures to the greatest extent possible, and to promote harmonization of private standards.

We will set up a process at the federal level for mutual recognition of systems for accrediting testing labs, and to provide for accreditation of testing facilities and of certification bodies.

We provide for enhanced transparency in regulatory process with additional information exchange and a guaranteed 60-day comment period on proposed regulations. Similar provisions will apply for state, provincial and private standards activities, but only at a "best efforts" level.

Tariffs

The United States and Canada agree that all bilateral tariffs on goods meeting the rules of origin will be eliminated. All dutiable products are

assigned by mutual agreement to one of the following staging categories for duty elimination: a) immediate duty elimination; b) duty elimination in five equal annual stages; or c) duty elimination in 10 equal annual stages.

The United States and Canada agree that the initial stage of reduction shall become effective January 1, 1989, for all products, except that for specialty steel items the initial stage of reduction shall become effective October 1, 1989, upon termination of the U.S. Section 201 action on such products.

Both Parties agree that goods meeting the rules of origin and for which the existing tariff rate, as defined in the Agreement, is free shall remain free, with a limited number of agreed exceptions.

The United States agrees that the U.S. duty-free treatment of western red cedar shingles will be restored upon the termination of the current U.S. Section 201 action on that product.

The United States and Canada agree that reductions in rates of duty shall be rounded down to the next lower 0.1 percent, or 0.1 cent as the case may be for virtually all products.

The United States and Canada agree that the staged elimination of the duty established in the Agreement for any product may be accelerated upon mutual agreement by Canada and the United States on such acceleration for the particular product.

Canada and the United States agree upon a procedure and general guidelines to be followed for translating the schedules of tariff concessions from the Harmonized System nomenclature in which they are expressed to the nomenclature of their respective existing tariff schedules if that should become necessary.

Canada and the United States agree upon the tariff regime which will be applicable to products included in the Canadian Machinery Program.

Temporary Entry for Business Purposes

The Parties have agreed to a Chapter outlining reciprocal undertakings regarding temporary entry for our citizens into each other's country for business purposes. These undertakings reflect the special trading relationship between the Parties and the desirability of establishing transparent criteria and clear procedures for facilitating temporary entry, while ensuring border security and protecting indigenous labour and permanent employment.

The Parties have agreed not to diminish the extent to which immigration measures in existence at the time of entry into force of the Agreement provide for temporary entry of business persons for purposes specified in the Agreement.

The Parties have agreed to a list of business visitors who are eligible to enter temporarily under the U.S. Non-immigrant Class B1 and the Canadian Regulation 19(1) without need of prior approval procedures, petitions or labour certification tests.

The Parties have agreed to a list of professional business persons who are eligible under a new U.S. section 214(e) of the INA and the Canadian Regulation 20(5) without need of prior approval procedures, petitions or labour certification tests.

The Parties have agreed to provide a supplemental visa or equivalent prior application procedure to give added certainty for temporary entry of certain traders and investors through use of the U.S. E visa and the Canadian Regulation 20(5).

The Parties have agreed not to require labour certification tests or similar procedures for temporary entry of intracompany transferees under U.S. Non-immigrant Class L1 and the Canadian Regulation 20(5).

The Parties have agreed to the establishment of a new consultative mechanism to address implementation of the undertakings of this Chapter, and to allow for further facilitation of temporary entry.

Wine and Distilled Spirits

Coverage

This Chapter of the Agreement will apply to the internal sale and distribution of wine and wine-containing beverages and distilled spirits and distilled spirits-containing beverages. It will not apply to beer or malt-containing beverages.

Listing Practices

The Parties will grant immediate national treatment for listings on products covered by this Chapter. Listing measures will be non-discriminatory, transparent, based on normal commercial considerations, and will not create disguised barriers to trade. All listing criteria shall be published and generally available to the public. There shall be an administrative appeal process for listing decisions. Automatic listing practices for the British Columbia estate wineries existing on October 4, 1987, meeting the current local content rule and producing less than 30,000 gallons annually are grandfathered.

Pricing Practices

Where the distributor is a public entity, the entity may charge producers the actual cost of service differential for product imported from the other Party. The differential which may be charged for imported product may only reflect the audited difference between the cost of service for the imported product which exceeds the cost of service for domestic product.

For wine, 25 percent of the differential in mark-up between the product of Canada and the United States will be eliminated at the beginning of the first year, 25 percent at the beginning of the second year, and the remaining will be phased out in equal steps over the following five years. Cost of service differentials will be permitted as defined above.

All discriminatory mark-ups on distilled spirits will be eliminated immediately. Cost of service differentials will be permitted as defined above.

All other discriminatory pricing measures will be eliminated immediately.

Distribution Practices

The Parties will immediately provide national treatment for distribution systems and practices for products covered by this Chapter with the following exceptions:

(1) on-premise sale of goods covered by this Chapter produced on the premises of the distillery or the winery will be permitted.

(2) private wine store outlets existing on October 4, 1987 in Ontario and British Columbia will be grandfathered.

Province of Quebec requirements for in-province bottling of product sold in grocery stores are recognized as being consistent with national treatment.

Blending Requirements

The blending requirement relating to the importation in bulk of distilled spirits for purposes of bottling in Canada will be eliminated.

Consultation

The Parties shall, upon request, consult regarding measures pertaining to this Chapter.

Distinctive Products

Bourbon Whiskey will be recognized as a distinctive product of the United States, and Canadian Whiskey will be recognized as a distinctive product of Canada.

Other Measures

The Parties have agreed to cooperate in the Uruguay Round of multilateral trade negotiations and in other international fora to improve protection of intellectual property.

Canada has agreed to revise its copyright law to provide protection to the retransmission of copyright programming effective no later than the entry into force of this Agreement.

Canada has agreed to remove the "print in Canada" requirement for eligible advertising expenses which can be deducted for income tax purposes.

Canada has agreed to phase out discriminatory postal rates for magazines of significant circulation.

The Parties have agreed that on or about March 15, 1988, the Canada Mortgage and Housing Corporation (CMHC) shall issue its evaluation of American Plywood Association (APA) trademarked C-D grade plywood with exterior glue as described in U.S. Product Standard PS-1 for Construction and Industrial Plywood for use in housing financed by CMHC.

The Parties have further agreed that if the CMHC does not grant approval for the use of C-D grade plywood in CMHC-financed housing, or grants approval only in part, the CMHC evaluation shall be reviewed by an impartial panel of experts mutually agreed by the Parties.

If the panel of experts does not agree with the CMHC findings or evaluation, or it has not completed its review by the date of entry into force of this Agreement, the United States shall be free to delay its tariff concessions on softwood plywood (4412.19.40 and 4412.99.40) and waferboard, oriented strand board and particle-board of all species (4410.10.00) pending agreement by the Parties that the issues have been resolved satisfactorily. Should the U.S. proceed to delay implementation of these tariff concessions, Canada shall be free to delay its implementation of its tariff concessions on 4412.19.90, 4410.10.10 and 4410.10.91.

Other Provisions

The Parties have agreed that the Free Trade Agreement does not impair or prejudice the exercise of any rights or enforcement measures arising out of the 1986 Softwood Lumber Memorandum of Understanding.

Binational Panel Dispute Settlement in Anti-dumping and Countervailing Duty Cases

In principle, the two Parties have agreed on the following provisions to address trade remedies and dispute settlement:

A. Domestic Anti-dumping and Countervailing Duty Laws

- The investigating authorities of each Party shall continue to enforce domestic anti-dumping and countervailing duty laws within their jurisdiction.

- The Free Trade Agreement shall provide that each Party reserves fully its right to change its domestic anti-dumping and countervailing duty laws, provided that:

    - no future changes in such laws can be applied to the other Party unless it is so specified in the legislation;

    - it notified such proposed changes to the other Party and entered into prior consultation with the other Party upon request;

- it makes only changes applicable to the other Party which are consistent with the GATT Anti-dumping Code and Subsidies Code, and with the object and purpose of the Free Trade Agreement including the object and purpose of these dispute settlement provisions. The object and purpose is to establish fair and predictable conditions for the progressive liberalization of trade between the two countries while maintaining effective disciplines on unfair trade practices, such object and purpose to be ascertained from the provisions of the Free Trade Agreement, its preamble and objectives and the practices of the Parties.

B. Remedial Process

- A panel may issue declaratory opinions with respect to changes by a Party to its anti-dumping or countervailing duty statutes after entry into force of the FTA with respect to:

  i) their consistency with the GATT Anti-dumping Code and Subsidies Code, and with the objects and purpose of the Free Trade Agreement, including the objects and purpose of the dispute settlement provisions; and

  ii) whether it has the effect of overturning a prior decision of a binational dispute settlement panel.

In the event the panel recommends modifications to the changes in the anti-dumping or countervailing duty statutes, this action will:

(a) trigger compulsory consultation for 90 days;

(b) during which period the Parties will seek a mutually agreeable solution which may include seeking remedial legislation; and

(c) in the event such legislation is not introduced and enacted into law within nine months, and no other agreement is reached the other Party may:

  (i) take comparable legislative or equivalent executive action, or

  (ii) terminate the Agreement with 60-days notice.

C. Binational Panel Process

- A new binational panel would replace judicial review in both the U.S. and Canada.

- At either Party's request, this panel would review, based upon the administrative record, final AD/CVD orders to determine if an investigating authority of either Party made a decision not in accordance with its law (including statutes, legislative history, regulations, administrative practice and judicial precedent). In such review, the binational panel would apply the appropriate standard of judicial review applicable under the domestic law of the Party whose final AD/CVD order was challenged.

- The panel would be a temporary, ad hoc body selected from a roster of possible panelists as specified in detail in the attachment at Tab One.

- The Parties would agree on procedures for resort to and decisions of such a panel, as specified in detail in the attachment at Tab Two.

- The decision of a panel shall be binding on the Parties and their investigating authorities. The panel may uphold or remand the decision to the relevant investigating authority for action not inconsistent with such decision.

D. Application of this Arrangement

- This arrangement shall be in effect for five years pending the development of a substitute system of laws in both countries for anti-dumping and countervailing duties. If no such system of laws is agreed and implemented at the end of five years, the present arrangement is extended for a further two years. Failure to agree to implement a new regime at the end of the two-year extension, shall allow either Party to terminate the Agreement on six-month notice.

- Both Parties agree to establish a Working Group to develop a substitute regime and report back as soon as possible. The Parties shall use their best efforts to develop and implement the substitute regime within the agreed time limit.

- This arrangement would apply only prospectively, after entry into force of the Free Trade Agreement , to:
    - anti-dumping and countervailing duty investigations in which a final determination of injury to the domestic industry is made by the relevant investigating authority after January 1, 1989; and
    - administrative reviews of anti-dumping and countervailing duty orders or suspension agreements in which a final decision regarding the results of such review is made by the relevant investigating authority after January 1, 1989.

Tab 1

BINATIONAL PANELS

A panel for this purpose would consist of five members, two appointed by each Party from an agreed roster of panelists in consultation with the other Party. The fifth panelist would be selected by agreement of both Parties; in the event that the Parties were unable to agree within ___ days, the fifth panelist would be selected by agreement among the other four panelists. If a fifth panelist still has not been selected by this procedure, the fifth panelist shall be chosen by lot from the roster.

In the selection of panelists, each Party would be permitted to exercise ___ preemptory strikes, disqualifying from appointment to the panel up to ___ candidates proposed by the other Party.

Prior to the entry into force of the FTA, the Parties would agree on a roster of ___ possible panelists composed equally of candidates suggested by one Party and candidates suggested by the other Party. The Parties would consult concerning their respective candidates for the roster. The Parties would normally form panels drawn from the roster, but would not be compelled to do so exclusively.

Tab 2

PANEL PROCEDURES

- When the investigating authorities of one government have made preliminary determinations regarding both injury and sales at less than fair value or subsidies, the other government may provide notice of its intention to resort to a panel ruling to the first government. At that time, the two governments would name panelists and make necessary arrangements with those panelists.

- The procedures for resort to a panel at the conclusion of an AD or CVD case (i.e. at the time an order is issued) would be as follows:

  -- 30 days for the complaining Party to file its complaint.

  -- 30 days for designation of the administrative record and its filing with the panel.

  -- 60 days for complainant to file its brief.

  -- 60 days for respondent to file its brief.

  -- 15 days for each Party to file reply briefs.

  -- 15 - 30 days for the panel to convene to hear oral argument by each Party.

  -- 90 days for the panel to issue its decision.

  -- the investigating authority concerned would take action not inconsistent with the decision of the panel, within time limits set by the panel taking into account the complexity and difficulty of such action (e.g. whether the investigating authority needs to obtain new factual information to take such action).

Extent of Obligations

The Parties to this Agreement shall ensure that all necessary measures are taken in order to give effect to its provisions, including their observance, except as specifically provided elsewhere in this Agreement, by state, provincial and local governments.

National Security

Nothing in this Agreement shall be construed

(a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests;

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(ii) taken in time of war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Institutional Provisions

Application

1. Except as provided in the Annex, the provisions of this part shall apply to avoidance or settlement of all disputes respecting the interpretation or application of this Agreement, unless the Parties agree jointly to use another procedure in any particular case.

2. Disputes arising under both this Agreement and the GATT may be settled in either forum, according to the rules of that forum, at the request of the complaining Party.

3. Once the dispute settlement provisions of this Agreement or any other applicable international dispute settlement mechanism has been invoked pursuant to paragraph 2 with respect to any matter, the procedure invoked shall be used to the exclusion of any other.

The Commission

1. The Parties hereby establish the Canada-United States Trade Commission (the Commission) to supervise the proper implementation of the Agreement, to resolve disputes that may arise over the interpretation and application of the Agreement, to oversee the further elaboration of the Agreement, and to consider any other matter that may affect the operation of the Agreement.

2. The Commission shall be composed of representatives of both Parties. The principal representative of each Party shall be the cabinet-level officer or Minister primarily responsible for international trade matters, or the respective designee of that official.

3. Each Party shall preside in alternate years over the Commission, which shall convene at least once a year in regular session to review the general functioning of the Agreement. Regular sessions of the Commission shall be held alternately in the two countries.

4. The Commission may establish and delegate responsibilities to such subsidiary ad hoc or standing committees or working groups as it deems necessary and appropriate. The Commission may also draw on the advice of the non-governmental individuals or groups where appropriate.

5. All decisions of the Commission shall be taken by consensus.

6. The Commission shall establish its own rules and procedures.

Notification

1. Each Party shall provide written notice to the other Party of any proposed or actual legislation, regulation or governmental procedure or practice that it considers might materially affect the operation of this Agreement. The notice shall include, whenever appropriate, a description of the reasons for the proposed or actual measure.

2. The written notice shall be given as far in advance as possible of the implementation of the measure. If prior notice is not possible, the Party implementing the measures shall provide written notice to the other Party as soon as possible after implementation.

3. Upon request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed legislation, regulation, or governmental procedure or practice, whether or not previously notified.

4. The provision of written notice is without prejudice to whether the measure referred to therein is consistent with the Agreement.

Consultation

1. Either Party may request consultations regarding any actual or proposed measure or any other matter which it considers affects the operation of this Agreement, whether or not the measure or matter has been notified in accordance with the notification Article.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution through consultations under this Article or other consultative provisions in this Agreement.

3. If the Parties fail to resolve a dispute through consultations within 30 days of the request for consultations under paragraph 1, either Party may request in writing a meeting of the Commission. The request shall state the measure or other matter complained of, and shall indicate what provisions of the Agreement are considered relevant. Unless otherwise agreed, the Commission shall convene within 10 days and shall endeavor to resolve the dispute promptly.

4. The Commission may call on such technical advisors as it deems necessary, or on the assistance of a mediator acceptable to both Parties, in an effort to reach a mutually satisfactory resolution of the matter.

5. Where the Parties agree on a mutually satisfactory resolution as a result of the procedures provided for in this Article, they shall take any appropriate measure necessary to implement the agreed resolution of the matter.

6. The Commission shall refer all disputes under the Safeguard Chapter and the Commission may refer any dispute under any other Chapter to binding arbitration on such terms and in accordance with such procedures as the Commission may adopt. If a Party or its subdivisions fails to implement in a timely fashion the findings of a binding arbitration panel regarding its measure or measures and the Parties are unable to agree on appropriate compensation, then the other Party shall have the right to suspend the application of equivalent benefits of the Agreement to the non-complying Party.

Dispute Settlement

1. a) Except as provided in the Annex to this Part, the provisions of this Article shall apply whenever a dispute arises concerning the interpretation or application of this Agreement, or whenever a Party considers that an actual or proposed measure of the other Party or its political subdivisions is or would be inconsistent with the obligations of the Agreement.

   b) If a dispute has been referred to the Commission under Article V and has not been resolved within a period of 30 days after such referral, or within such other period as the Commission has agreed upon, the Commission, upon request of either Party, shall establish a panel of experts to consider the matter.

2. a) The panel shall be composed of five members, at least two of whom shall be citizens of Canada and at least two citizens of the United States. Within 15 days of establishment of the panel, each Party, in consultation with the other Party, shall choose two members of the panel and the Commission shall endeavor to agree on the fifth. If the Commission is unable to agree on the fifth panelist within such period, then, at the request of either Party, the four appointed panelists shall decide on the fifth panelist within 30 days of establishment of the panel. If no agreement is possible, the fifth panelist will be selected by lot from the roster.

   b) The Commission shall develop and maintain a roster of individuals who are willing and able to serve as panelists in individual disputes. Wherever possible, and consistent with the nature of the dispute, panelists shall be chosen from this roster. In all cases, panelists shall be chosen strictly on the basis of objectivity, reliability, sound judgment, and, where appropriate, expertise in the particular areas or areas under consideration. Panelists shall not be affiliated with or take instructions from either Party.

c) The panel shall establish its own rules of procedure, unless the Commission has agreed otherwise. The procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide written submissions and rebuttal arguments. The proceedings of the panel shall be confidential. Unless otherwise agreed by the Parties, the Panel shall base its decision on the arguments and submissions of the Parties.

3. Unless the Parties otherwise agree, the panel shall, within three months after its chairman is appointed, present to the Parties an initial report containing findings of fact, and its determination as to whether the measure or measures at issue are or would be inconsistent with the obligations of the Agreement and its recommendations, if any, for resolution of the dispute. If requested by either Party at the time of establishment of the panel, the panel shall also present findings as to the degree of adverse trade effect on the other Party of any measure or measures found not in conformity with the obligations of the Agreement. Panelists shall be at liberty to furnish separate opinions on matters not unanimously agreed among the panel.

4. Within 14 days of issuance of the initial report of the panel, a Party disagreeing in whole or in part with the report of the panel shall present a written statement of its objections and the rationale for those objections to the Commission and the panel. In such an event, the panel on its own motion or at the request of the Commission or either Party may request the views of both Parties and reconsider its report, make any further examination that it deems appropriate and issue a final report, along with dissenting or concurring opinions, within 30 days of issuance of the initial report.

5. Unless the Commission agrees otherwise, the final report of the panel shall be published along with any separate opinions by panel members, and any written views that either Party desires to be published.

6. Upon receipt of the final report of the panel, the Commission shall agree on a resolution of the dispute, which normally shall conform with the findings of the panel. Whenever possible, the solution shall be non-implementation or removal of a measure not conforming with the Agreement or, failing such a solution, compensation to the affected Party.

7. If the Commission has not reached agreement on a mutually satisfactory resolution within one month of receiving the final report of the panel (or such other date as the Commission may decide), and a Party considers that its fundamental rights under the Agreement are or would be impaired by the implementation or maintenance of the measure or measures of the other Party, the first Party shall be free to suspend the application to the other Party of benefits of equivalent effect until such time as the Parties have reached agreement on a resolution of the dispute.

Referrals of Matters from Judicial or Administrative Proceedings

1. In the event an issue of interpretation of the Agreement arises in any domestic judicial or administrative proceeding of a Party which either Party considers would merit intervention by a Party, or if a court or administrative body solicits the views of either or both Parties, the Parties shall endeavor to arrive at an agreed position on the proper interpretation of the applicable provisions, if any, of the Agreement.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation to the court or administrative body in accordance with the rules of that forum. If the Parties are unable to reach agreement on the proper interpretation of the provision of the Agreement at issue, either Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Annex

Application

AD/CVD

Financial Services

Standstill

Both Parties recognize that this Agreement is subject to domestic approval on both sides. Accordingly, both Parties understand the need to exercise their discretion in the period prior to entry into force so as not to jeopardize the approval process or undermine the spirit and mutual benefits of the Free Trade Agreement .

CANADA-U.S. TRADE NEGOTIATIONS
A CHRONOLOGY

TRADE: Securing Canada's Future

CHRONOLOGY

Summary

The Canada-U.S. negotiations began formally in June, 1986, after several months of study and consultations on the desirability of establishing a Free Trade Agreement.

The primary impetus for such negotiations came from Prime Minister Mulroney and President Reagan in the Declaration on Trade in Goods and Services, signed at their Quebec City Summit meeting in March, 1985.

At the beginning of October that year, the Prime Minister and President exchanged letters agreeing that negotiations aimed at reaching a comprehensive agreement should formally proceed.

On the Canadian side, Sectorial Advisory Groups on International Trade and the International Trade Advisory Committee were established to provide the Government with expert outside advice on international trade. The country's First Ministers agreed on full federal-provincial co-operation and consultation.

The Prime Minister appointed Simon Reisman to lead the Canadian delegation in November, 1985. Peter Murphy was appointed for the U.S. side and the first round of negotiations began in Washington in June, 1986.

Talks concluded in October 1987, with an ad referendum agreement. In the final session, the negotiating teams were led by senior politicians and political staff.

1987

October 4	Prime Minister Mulroney announces agreement in principle.
October 2-3	Final negotiating session in Washington.
October 2	First Ministers meet in Ottawa and support continued search for agreement.

September 28 International Trade Minister Pat Carney, Finance Minister Michael Wilson and the Prime Minister's Chief of Staff, Derek Burney, meet with U.S. Treasury Secretary James Baker and United States Trade Representative Clayton Yeutter for seven and a half hours. Minister Carney says that "progress made" but that it would be up to Cabinet to decide on a resumption of negotiations. (Similar political-level discussions are held in Washington, October 1).

September 26 Appearing on television, Reisman says that "It was made crystal clear in the reply that we will have to have a great deal more precision and have to know a great deal more before there can be any basis for resuming these talks."

September 25 In Vancouver speech, Trade Minister Carney says that talks will begin if U.S. responds to five Canadian demands: clear rules on what is fair or unfair trade practice; speedy, binding resolutions to disputes over matters such as duties imposed by each country on the other's products; increased access to each other's agricultural and food products in a balanced way; changes in automotive trade only if they increase production and employment in both countries; and removal of virtually all tariffs and non-tariff barriers between the two countries with no new barriers introduced.

September 23 Reisman walks out of negotiations, saying "the U.S. is not responding on elements fundamental to Canada's position. I have therefore suspended the negotiations." PM tells MPs in the House that "Canada has tried vigorously, effectively and well to conclude this arrangement and the burden is now on the U.S. to deliver on its end of the bargain." Premiers are advised by telephone of talks breakdown.

	USTR Yeutter says "we are prepared to resume talks and are ready to meet round the clock, if necessary, to complete an agreement by the deadline."
September 21-23	Twenty-Second meeting (Washington).
September 21	Negotiations continue in Washington.
September 19	Finance Minister Wilson and Chief of Staff Burney meet with Treasury Secretary Baker in Washington to discuss state of talks.
September 14	First Ministers meet in Ottawa. Prime Minister says major stumbling blocks remain but that a deal is still within reach.
September 10-11	Twenty-first meeting (Washington).
August 26-29	Premiers' annual meeting in St. John, New Brunswick. They urge the federal government to use every "strategic instrument" they have to combat trade "harassment" by the U.S. They affirm that the principal objective of the talks is "a guarantee of secure access to the American market."
August 25	Economic Council of Canada releases its latest study of free trade and concludes that it would create 189,000 to 350,000 jobs and the benefits would spread to all regions of the country. The study says the big winners would be consumers.
August 24-27	Twentieth meeting (Cornwall).
August 5	After a briefing from U.S. trade negotiators Senate Finance Committee chairman Lloyd Bentsen (D-Tx) says he is convinced "things will fall into place." He notes, however, that a binding dispute settlement mechanism and exemption from U.S. trade remedy laws would "not be a very likely

prospect," a view shared by committee members John Danforth (R-Miss) and John Heinz (R-Penn). In contrast, Senator Patrick Moynihan (D-NY), enthusiastically endorsed the idea.

At the same time, the Northeast-Midwest Congressional Coalition delivers its recommendations to U.S. trade negotiators. They call for revisions to the Auto Pact to eliminate the duty remissions program, elimination of Canadian tariffs on telecommunications, standardized rules of origin to prevent third-country entry into the U.S., changes to provincial trading practices, especially those affecting markup on U.S. alcoholic beverages.

August 5-6 Nineteenth meeting (Washington).

July 20 Eighteenth meeting (Ottawa).

July 14-15 Seventeenth meeting (Washington).

July 13 Western-based farm groups including the Canadian Cattlemen's Association, the United Grain Growers, the Western Canadian Wheat Growers and the Manitoba Farm Business Association form the Canadian Agricultural Policy Alliance (CAPA) to support "a comprehensive trade arrangement with the U.S. which includes agricultural commodities and which leads to lower tariffs, addresses the issue of non-tariff barriers, establishes guidelines for acceptable domestic policies in the two countries and provides for dealing with trade irritants."

July 8 Canadian Alliance for Trade and Job Opportunities led by Peter Lougheed and Donald Macdonald meets with congressional leaders in Washington. They get a mixed reception on Canadian objectives from U.S. Senate leaders.

July 7	Prime Minister and Premiers meet in Ottawa as part of quarterly consultations.
July 2	At a meeting in Detroit, Canadian External Affairs Minister Joe Clark and U.S. Secretary of State George Shultz rededicate both countries to the negotiations. Secretary Shultz says: "Success is not assured, but we are optimistic that we will be able to conclude a draft agreement which advances the economic interests of both countries and present it for congressional and parliamentary review in early October". Minister Clark warns against "groups in both our countries who are ready to be afraid or who think it is better politics to look inward than to reach outwards ... if this negotiation fails, let it fail on its merits. If it is to succeed, and it certainly can, all of us who know the merits of expanded trade must enter fully in the debate."
June 29	Sixteenth meeting (Ottawa).
June 22-23	Fifteenth meeting (Ottawa).
June 15-16	Fourteenth meeting (Washington).
June 11	The Prime Minister and President meet in the aftermath of the Venice Summit. Afterwards, the PM told the press that the two sides, "have a long way to go" but that it was "absolutely vital" because a "free trade arrangement means growth and prosperity and jobs for Canadians. But it's got to be fair. It's got to be fair for the U.S. as well. And we think we can conclude that."
June 8	American Coalition on Trade Expansion with Canada, group of U.S. trade associations and business, is created to lobby for comprehensive trade deal.

May 18-20 Thirteenth meeting (Meech Lake).

April 27-30 Twelfth meeting (Ottawa).

April 13 At a meeting in Washington, the National Association of Manufacturers and the Canadian Manufacturers' Association issue a joint statement endorsing "a balanced and comprehensive trade agreement between the U.S. and Canada that would be mutually advantageous to both countries."

April 9-10 Eleventh meeting (Washington).

April 5-6 President Reagan visits Ottawa and praises free trade proposal, saying it "would establish the largest free trade area in the world, benefitting not only our two countries but setting an example of co-operation to all nations that now wrestle against the siren temptation of protectionism." He committed himself and the resources of his Administration "to good faith negotiation that will make this visionary proposal a reality." On this, he promised, "the Canadian people and the members of Parliament have my word."

April 1-3 At their annual meeting, in Phoenix, the Canada-U.S. Relations Committee of the Canadian and U.S. Chambers of Commerce promised to promote a free trade agreement in their respective countries. The meeting also passed resolutions in support of a comprehensive agreement.

March 19 The Canadian Alliance for Jobs and Trade Opportunities (CAJTO), an independent and non-partisan alliance to promote free trade within Canada is established with Peter Lougheed and Donald Macdonald as co-chairmen.

March 16 House of Commons debate on Trade Negotiations. Spokesmen for all three parties, including the

leaders, debate the issues. The Government wins the subsequent vote on the motion 160-58.

March 16-17 Tenth meeting (Ottawa).

March 11 First Ministers meet with Prime Minister Mulroney in Ottawa.

February 19-20 Ninth meeting (Washington).

January 27 In his annual State of the Union Address, President Reagan commits his Administration "to complete an historic free trade arrangement between the world's two largest trading partners-Canada and the United States."

January 21 Vice-President George Bush and Treasury Secretary James Baker visit Ottawa. The Vice-President says the talks are "very important ... and very possible to bring to fruition," adding "if we can work with Canada and work out the problems that we have with this significant, tremendous, trading partner, that will in my view set a lick for free trade all across the world."

January 15-16 Eighth meeting (Washington).

1986

December 16-18 Seventh meeting (Washington).

December 9 U.S. Senators Bentsen, Chaffee, Matsunaga, Baucus visit Ottawa. Senator Baucus, chairman of the Senate Finance Committee says "I think the chances are very good we can work out an agreement. We need a truly free trade agreement. I support such an agreement. I believe the Senate Committee will support such an agreement."

November 12-14	Sixth meeting (Ottawa).
October 16	Series of U.S. protectionist measures imposed include Commerce Department 15% duty on Canadian lumber, legislation (Oct. 21) imposing general surtax on U.S. imports, levy on imported crude oil and Commerce duty on U.S. imports of cut flowers. Canada takes oil import fee to GATT. After meeting with provincial trade ministers, Trade Minister Carney says lumber duty will be fought. In separate ruling (November 7), Canada imposes a 67% countervail (later reduced to 54%) on U.S. exports of corn.
September 27-28	Fifth meeting (Ottawa).
September 8-11	U.S. congressional committee and panel hearings in Washington on trade talks. U.S. companies raise everything from electricity to lumber.
September 3-5	Fourth meeting (Ottawa and Meech Lake).
July 29-31	Third meeting (Mont Tremblant, Quebec).
June 30	Pat Carney appointed Minister for International Trade.
June 24	In New York, Trade Minister Kelleher tells U.S. business that U.S. import-relief laws were being applied to "chilling" effect and calls for new method of resolving trade disputes with U.S.
June 17-19	Second meeting of Trade Negotiations Talks in Washington.
June 16	Prime Minister addresses the nation on Free Trade, calling the negotiations "an important turning point in the life of our country." He says "we cannot be content with the status quo."

June 13	In visit to Ottawa, Vice-President Bush says that world's largest trading partnership is "too important" to let trade tiffs upset it.
June 2	First Ministers' Meeting in Ottawa agrees to federal-provincial co-operation, including quarterly First Ministers' Meeting.
May 28	Simon Reisman formally appointed Canada's Chief Negotiator.
May 21-22	Simon Reisman and U.S. Negotiator Peter Murphy meet for first time in Ottawa to discuss organization of trade talks.
April 23	In divided vote 10-10, Senate Finance Committee grants"fast-track" authority to President's request for trade negotiations.
March 18	Washington Summit. President Reagan says trade agreement could be heralded as a "landmark accomplishment, a cornerstone for future prosperity" for both countries.
February 3	Minister for International Trade James Kelleher establishes Sectorial Advisory Groups on International Trade. These will interact with government to ensure that sectoral views are taken into account on international trade matters.
January 5	Trade Minister Kelleher announces membership of 39-person International Trade Advisory Committee.
	Continuing Committee on Trade Negotiations, representing senior provincial trade representatives and Negotiating Team, holds first of many meetings on trade initiative.

1985

December 10 President Reagan formally notifies Congress of intent to seek agreement under "fast-track" authority. In letter to House Ways and Means Committee and Senate Finance Committee, he says negotiations would be an opportunity to "significantly enhance U.S. efforts to eliminate trade frictions with Canada ... They are not at issue in these negotiations."

December 4 In Chicago, Prime Minister says, "our political sovereignty, our system of social programs, our commitment to fight regional disparities, our unique cultural identity, our special linguistic character -- these are the essence of Canada ... They are not at issue in these negotiations."

November 29 First Ministers' Meeting in Halifax agrees to the principle of full provincial participation in trade negotiations.

November 20 Canadian Federation of Labour President cautiously endorses idea of freer trade with U.S., saying "it has potential for more jobs for Canadians ... it could be of benefit to Canadians."

November 18 In New York speech, External Affairs Minister Joe Clark says trade talks could include cultural questions but that Canada would not agree to any changes that would weaken Canadian culture. "Our government's intention to promote culture in Canada through direct financial support is simply not at issue in a trade negotiation."

November 8 Simon Reisman appointed Chairman of the Preparatory Committee for Trade Negotiations.

October 1 Prime Minister Mulroney writes President Reagan proposing the "broadest possible package of mutually beneficial reductions in barriers to trade

	in goods and services" and President replies (Oct. 2) that "I welcome this proposal" and agreed that negotiations should proceed toward a comprehensive trade agreement.
September 26	Prime Minister announces in Parliament that Canada will pursue trade agreement with the U.S. designed to "secure, expand and enhance" access to U.S. markets. Report of Trade Minister James Kelleher tabled at the same time. USTR Yeutter submits his report to President; it welcomes proposal but says U.S. would seek end to Canadian subsidies which distort trade.
September 19	International Trade Advisory Committee established, under the chairmanship of Walter Light, to provide a two-way flow of information and advice between the government and private sector on international trade matters.
September 5	Report of the Royal Commission on the Economic Union and Development Prospects for Canada (Macdonald Commission) is released. It urges government to negotiate a free trade deal with U.S.
September 2	Canadian-American Committee calls for government negotiation of a comprehensive bilateral trade agreement saying "both countries would benefit from freer trade."
August 23	Joint Parliamentary Committee on Canada's International Relations endorses negotiations for a free trade agreement.
July 7	Following meeting with inner Cabinet in Baie Comeau, the Prime Minister says a "trade enhancement" agreement with U.S. is necessary to protect jobs.

May 28 Federal-Provincial Trade Ministers meeting in Vancouver concludes Canada should proceed to free trade negotiations.

March 18 At the Quebec Summit, the Prime Minister and President sign the Declaration on Trade in Goods and Services setting as a common goal a more secure climate for bilateral trade.

International Trade Minister Kelleher begins cross-country consultations with private sector and trade association groups.

February 23 In an interview, Donald Macdonald, chairman of the Royal Commission on the Economic Union and the Development Prospects for Canada and a former Finance Minister, says that "I now realize that we need a global agreement with the U.S. to control non-tariff barriers."

January 29 The discussion paper "How to Secure and Enhance Canadian Access to U.S. Markets", is issued and favours a two-pronged approach: multilateral trade negotiations and a new trade agreement with the United States.

1984

December 19 Trade Minister Kelleher and provincial trade ministers agree to develop a national trade strategy aimed at securing Canadian access to U.S. market.

December 10 In major speech to Economic Club of New York, the Prime Minister says Canada wants to "rebuild its image" as a reliable trading partner and as a good place to invest. He points to plans to abolish NEP and replace FIRA with Investment Canada as proof of the government's intentions.

November 8 Finance Minister Wilson indicates in "Agenda for Economic Renewal" that refurbished relations with

U.S. to secure and enhance access to foreign markets are the major themes of economic renewal.

November 6 President Reagan re-elected in a landslide victory.

October 9 Congress passes omnibus Trade Bill that authorizes negotiation of trade agreements with Canada and Israel to reduce or eliminate tariffs and other trade barriers. On October 15, the President asks the U.S. International Trade Commission to study economic effects of providing duty-free treatment of Canadian goods.

September 25 Prime Minister Mulroney meets with President Reagan in Washington and promises closer ties with the U.S., saying that "a healthy, strong relation with the U.S. in no way presupposes any degree of subserviance on our part."

September 4 Brian Mulroney and his Conservative Party elected with the largest majority in Canadian history.

CANADA-U.S. TRADE NEGOTIATIONS
GLOSSARY

TRADE: Securing Canada's Future

Glossary of Trade and Related Terms

International trade policy and negotiations, like other specialized fields, has developed its own distinctive vocabulary which mystifies laymen -- even experts. Many non-specialists stumble over terms commonly used in trade negotiations such as the acronyms that represent international organizations that guide, regulate, and facilitate trade, or Canadian and U.S. departments and agencies responsible for trade policy. This glossary provides a guide to many of the specialized terms, abbreviations and acronyms used in international trade negotiations.

The definitions included in this glossary are drawn or adapted from a variety of sources, the most important of which is a glossary prepared by the United States department of Commerce.

Term	Definition
Accession	The process of becoming a contracting party to a multilateral agreement such as the GATT. Negotiations with established GATT contracting parties, for example, determine the concessions (trade liberalization) or other specific obligations a non-member country must undertake before it will be entitled to full GATT membership benefits.
ACTN	Advisory Committee on Trade Negotiations. Principal forum for advise to USTR on trade negotiations.
Adjustment	The ongoing process by which the economy declines or renews and adjusts to changing circumstances. Among the factors which influence the scope and pace of adjustment are changes in technology and productivity, trade liberalization, consumer taste, resource exhaustion, and the changing composition of the labour force. See also structural change.

Adjustment Assistance	Financial, training and reemployment technical assistance to workers and technical assistance to firms and industries to help them cope with adjustment difficulties arising from increased import competition. The objective of the assistance is usually to help an industry to become more competitive in the same line of production, or to move into other economic activities. The aid to workers can take the form of training (to qualify the affected individuals for employment in new or expanding industries), relocation allowances (to help them move from areas characterized by high unemployment to areas where employment may be available) or unemployment compensation (to tide them over while they are searching for new jobs). The benefits of increased trade to an importing country generally exceed the costs of adjustment, but the benefits are widely shared and the adjustment costs are sometimes narrowly -- and some would say unfairly -- concentrated on a few domestic producers and communities. Both imports restraints and adjustment assistance can be designed to reduce these hardships but adjustment assistance -- unlike import restraints --allows the economy to enjoy the full benefits of lower-cost imported goods. Adjustment assistance can also be designed to facilitate structural shifts of resources from less productive to more productive industries, contributing further to greater economic efficiency and improved standards of living.
Ad Valorem Tariff	A tariff calculated as a percentage of the value of goods cleared through customs, e.g. 15 percent ad valorem means 15 percent of the value.
American selling price (ASP)	A method of calculating US import duties, under which those for certain categories of products -- benzenoid chemicals, rubber footwear, canned clams, and wool-knit gloves -- were computed by multiplying the tariff rate not by the price of the imported product, as is standard practice, but instead by the (usually much higher) price of the US product with which the import competed. This typically resulted in a much higher effective tariff. The United States agreed in the Tokyo Round to phase out this practice effective in 1981.
Anti-dumping Code	A code of conduct negotiated under the auspices of GATT during the Kennedy and Tokyo Rounds of the MTN that established both substantive and procedural standards for national anti-dumping proceedings. See also Code of Conduct and Dumping.
Anti-dumping	Additional duties imposed by an importing Duties country in instances where imports are priced at less than the "normal" price charged in the exporter's domestic market and are causing material injury to domestic industry in the importing country.

ASEAN	Association of South-East Asian Nations (Malaysia, Singapore, Indonesia, Thailand, the Philippines, and Brunei).
Autopact	A sectoral trade agreement (The Automotive Products Trade Agreement) entered into by the United States and Canada in 1965 in order to encourage the rationalization and growth of the North American auto industry. It provides for duty-free movement between the two countries of new automobiles and original equipment parts. In the case of Canada, only producers who benefit are allowed to import duty-free.
Balance of payments	A tabulation of a country's credit and debit transaction with other countries and international institutions. These transactions are divided into two broad groups: Current Account and Capital Account. The Current Account includes exports and imports of goods, services (including investment income), and unilateral transfers. The Capital Account includes financial flows related to international direct investment, investment in government and private securities, international bank transactions, and changes in official gold holdings and foreign exchange reserves.
Balance of trade	A component of the balance of payments, or the surplus or deficit that results from comparing a country's expenditures on merchandise imports and receipts derived from its merchandise exports.
Barter	The direct exchange of goods for other goods, without the use of money are a medium of exchange and without the involvement of a third party.
Beggar-Thy-Neighbor Policy	A course of action through which a country tries to reduce unemployment and increase domestic output by raising tariffs and instituting non-tariff barriers that impede imports, or by accomplishing the same objective through competitive devaluation. Countries that pursued such policies in the early 1930s found that other countries retaliated by raising their own barriers against imports, which, by reducing export markets, tended to worsen the economic difficulties that precipitated the initial protectionist action. The Smoot-Hawley Tariff Act of 1930 is often cited as a conspicuous example of this approach.
Berne Convention	International agreement providing for national treatment in the protection of intellectual property. Together with the Paris Convention, provides the basis for the multilateral intellectual property regime administered by WIPO.
BIAC	Business and Industry Advisory Council to the OECD.

Bilateral Trade	A formal or informal agreement involving Agreement commerce between two countries. Such agreements sometimes list the quantities of specific goods that may be exchanged between participating countries within a given period.
Binding	Concept of agreeing to maintain a particular tariff level or other trade restriction, i.e., binding it against increase or change. In trade negotiations, binding a tariff is considered equivalent to a significant reduction in the level. The industrialized countries have virtually bound all their tariffs on industrial products in seven rounds of GATT negotiations.
Binding Arbitration	Concept in dispute settlement where the parties to the dispute agree at the outset to abide by the results of dispute settlement procedures.
Border Tax Adjustments	The remission of taxes on exported goods, including sales taxes and value added taxes, designed to ensure that national tax systems do not impede exports. The GATT permits such frontier adjustments on exports for indirect taxes on the condition that these are passed on to consumers, but not for direct taxes (e.g., income taxes asessed on producing firms).
Bounties or Grants	Payments by governments to producers of goods, often to strengthen their competitive position. See also subsidies.
Boycott	A refusal to deal commercially or otherwise with a person, firm or country.
Buy-National	Discriminatory government procurement policies, such as Buy-America or Buy-Canadian, which provide a margin of preference for local suppliers over foreign suppliers. The GATT does not require non-discrimination by governments in their purchasing policies. A modest code, agreed to during the Tokyo Round, provides for non-discriminatory purchasing practices by specified government entities.
CAP	See Common Agricultural Policy of the EC.
Capital Account	In the calculation of the balance of payments, the Capital Account includes financial flows related to international direct investment, investment in government and private securities, international bank transactions, and changes in official gold holdings and foreign exchange reserves.

CIF	An abbreviation used in some international sales contracts, when the selling price includes all "costs, insurance and freight" for the goods sold ("charge in full"), meaning that the seller arranges and pays for all relevant expenses involved in shipping goods from their point of exportation to a given point of importation. In import statistics, "CIF value" means that all figures are calculated on this basis, regardless of the nature of individual transactions.
CIT	Canadian Import Tribunal, a body responsible under Canadian legislation for findings of injury in anti-dumping and countervailing duty cases and the provision of advise to the government on other import issues.
CIT	US Court of International Trade; special court set up in the US to hear appeals from administrative and quasi-judicial trade decisions, e.g., from decisions of the ITC or ITA.
CFL	Canadian Federation of Labour
CLC	Canadian Labour Congress
COCOM	Coordinating Committee responsible for the international coordination of export controls on strategic material. Members include USA, Canada, UK, France, Italy, Belgium, Japan, Denmark, Germany (FR), Netherlands, Norway, Greece, Portugal, and Turkey.
Code of Conduct	International instruments that indicate standards of behaviour nation states or multi-national corporations deemed desirable by the international community. Several codes of conduct were negotiated during the Tokyo Round that liberalized and harmonized domestic measures that might impede trade, and these are considered legally binding for the countries that choose to adhere to them. Each of these codes is monitored by a special committee that meet under the auspices of GATT and encourages consultations and the settlement of disputes arising under the code. Countries that are not Contracting Parties to GATT may adhere to these codes. GATT Articles III through XXIII also contain commercial policy provisions that have been described as GATT's code of good conduct in trade matters. The United Nations has also encouraged the negotiation of several "voluntary" codes of conduct, including one that seeks to specify the rights and obligations of trans-national corporations and of governments.
Commercial Presence	Trade in services concept; presence that a national of one country must have in another in order to complete a service transaction, such as a branch office staffed by local staff. Concept falls short of right of establishment.

Commodity

Broadly defined, any article exchanged in trade, but most commonly used to refer to raw materials, including such minerals as tin, copper and manganese, and bulk-produced agricultural products such as coffee, tea and rubber.

Commodity Agreement

An international understanding, formally accepted by the principal exporters and importers, regarding international trading of a raw material and usually intended to affect its price. Some producing countries would like to use commodity agreements to raise prices for the commodities they produce. Consuming countries generally are willing to agree only to commodity agreements that only seek to moderate extreme price fluctuations.

Common Agricultural Policy (CAP)

A set of policies and devices by which member states of the European Community (EC) seek to merge their individual agricultural programs into a unified effort to promote regional agricultural development, fair and rising standards of living for the farm population, stable agricultural markets, increased agricultural productivity, and methods of dealing with security of food supply. Two of the principal elements of the CAP are the variable levy (an import duty amounting to the difference between EC target farm prices and the lowest available market prices of imported agricultural commodities) and export subsidies to promote exports of farm goods that cannot be sold within the EC at the target prices.

Common External Tariff (CXT)

A tariff rate uniformly applied by a common market or customs union, such as the European Community, to imports from countries outside the union. For example, the European Common Market is based on the principle of a free internal trade area with a common external tariff "Free-trade areas" do not necessarily have common external tariffs.

Common Market

See Customs Union.

Comparative Advantage

A central concept in international trade theory which holds that a country or a region should specialize in the production and export of those goods and services that it can produce relatively more efficiently than other goods and services, and import those goods and services in which it has a comparative disadvantage. This theory was first propounded by David Ricardo in 1817 as a basis for increasing the economic welfare of a population through international trade. The comparative advantage theory normally favours specialized production in a country based on intensive utilization of those factors of production in which the country is relatively well endowed (such as raw materials, fertile land or skilled labor); and perhaps also the accumulation of physical capital and the pace of research.

Compensation	Concept that withdrawal or amendment of a previously negotiated or bound concession, such as a tariff increase, change in quota level, temporary surtax etc., requires a new and equivalent concession.
Competition Policy	Set of policy measures whose objective is to protect the effective operation of the economy based on the premise that generally a market system will give better results in terms of economic and industrial performance than any alternative systems of industrial organization. Canada's competition policy is founded in the Competition Act. See also Restrictive Business Practices.
Compound Duty or Tariff	An import tax consisting of a specific rate plus an ad valorem charge, or a provision that an ad valorem or specific tax will apply, whichever is higher. Also called a "mixed tariff." See also Ad Valorem Tariff and Specific Tariff.
Contingency Protection	Collective term referring to Anti-dumping and Countervailing Duties and Safeguards.
Countertrade	Transactions in which the seller provides the buyer with deliveries (e.g., technology, know-how, finished products, machinery and equipment) and contractually agrees to purchase goods from the buyer equal to an agreed-upon percentage of the original sales contract value. A practice which has become increasingly prevalent in East-West trade; nonmarket economy countries have adopted countertrade in various forms as a tool for generating some or all of the hard currency needed for new industrial projects, expanding exports to the West and minimizing the outlay of scarce resources of hard currency. Also referred to as barter, buy back, counterpurchase, offset and compensation trade.
Countervailing Duties	Additional duties imposed by the importing country to offset government subsidies in the exporting country, when the subsidized imports cause material injury to domestic industry in the importing country.
Cultural sovereignty	A term coined by nationalists and producers of cultural products to describe the state where domestically produced cultural products such as books, films, magazines and TV programs have sufficient access to their home market to ensure that native values are not supplanted by foreign values.
Current Account	That portion of a country's balance of payments that records current (as opposed to capital) transactions, including visible trade (exports and imports), invisible trade (income and expenditures for services), profits earned from foreign operations, interest and transfer payments.

Customs Act	Canadian legislation which provides the basic framework for customs procedures in Canada.
Customs Classification	The particular category in a tariff nomenclature in which a product is classified for tariff purposes, or the procedure for determining the appropriate tariff category in a country's nomenclature system used for the classification, coding and description of internationally traded goods. Most important trading nations -- except for the United States, Canada and the Soviet Union -- classify imported goods in conformity with the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).
Customs Cooperation Council Nomenclature (CCCN)	A system for classifying goods for customs purposes formerly known as the Brussels Tariff Nomenclature (BTN)
Customs Duties	See Tariff.
Customs Harmonization	International efforts to increase the uniformity of customs nomenclatures and procedures in cooperating countries. The Customs Cooperation Council has been seeking since 1970, to develop and up-to-date and internationally accepted "Harmonized Commodity Coding and Description System" for classifying goods for customs, statistical, and other purposes. See also Kyoto Convention.
Customs Tariff Act	Canadian legislation which provides the legal framework for the collection of customs duties in Canada, including rules related to drawbacks, duty remission, valuation, etc.
Customs Union	A group of nations which have eliminated trade barriers among themselves and imposed a common tariff on all goods imported from all other countries. A customs union is often referred to as a common market.
Defence Production Sharing Arrangements	A set of administrative arrangements between the United States and Canada dating back to the 1941 Hyde Park arrangement providing for free trade in defence material and encouraging shared production of such material.
Deficiency Payments	Government payments to compensate farmers for all or part of the difference between domestic market price levels for a commodity and a higher target price. See also Variable Levy.

Devaluation	The lowering of the value of a national currency in terms of the currency of another nation. Devaluation tends to reduce domestic demand for imports in a country by raising their prices in terms of the devalued currency and to raise foreign demand for the country's exports by reducing their prices in terms of foreign currencies. Devaluation can therefore help to correct a balance of payments deficit and sometimes provide a short-term basis for economic adjustment of a national economy.
Developed Countries	A term used to distinguish the more industrialized nations -- including all OECD member countries as well as the Soviet Union and most of the socialist countries of Eastern Europe -- from "developing" -- or less developed -- countries. The developed countries are sometimes collectively designated as the "North," because most of them are in the Northern hemisphere.
Developing Countries	A broad range of countries that generally lack (LDCs) a high degree of industrialization, infrastructure and other capital investment, sophisticated technology, widespread literacy, and advanced living standards among their populations as a whole. The developing countries are sometimes collectively designated as the "South" because a large number of them are in the Southern hemisphere.
Dispute Settlement	Those institutional provisions in a trade mechanism agreement which provide the means by which differences of view between the parties can be settled.
Domestic content requirements	A requirement that firms selling a particular product within a particular country must use, as a certain percentage of their inputs, goods produced within that country, a proposition particularly attractive to the auto industry and its workers.
Domestic International Sales Corporation (DISC)	A special US corporation authorized by the US Tax Revenue Act of 1971, as amended by the Reform Act of 1984, to borrow from the US Treasury at the average one-year Treasury bill interest rate to the extent of income tax liable on 94 percent of its annual corporate income. To qualify, the corporation must derive 95 percent of its gross assets, such as working capital, inventories, building and equipment from exports. Such a corporation can buy and sell independently, or can operate as a subsidiary of another corporation. It can maintain sales and service facilities outside the United States to promote and market its goods.
DREE	Canadian Department of Regional Economic Expansion (1972-1982), replaced by DRIE.
DRIE	Canadian Department of Regional Industrial Expansion

Dumping	The sale of an imported commodity at a price lower than that at which it is sold within the exporting country or to third countries. Dumping is generally recognized as an unfair trade practice that can disrupt markets and injure producers of competitive products in the importing country. Article VI of GATT permits the imposition of special Anti-Dumping Duties against "dumped" goods equal to the difference between their export price and their normal value in the exporting country.
Duty	See Tariff.
Duty Remission	Import duties or taxes repaid by a government in whole or in part, to a particular company or industry contingent upon exports, manufactured in the importing country or similar performance requirements, usually on imports of components, parts or products to complete a product line.
Drawback	Import duties or taxes repaid by a government in whole or in part, when the imported goods are re-exported or used in the manufacture of exported goods.
EEC	European Economic Community, comprising, as of January 1, 1986, France, Italy, Belgium, Germany (FR), Netherlands, Luxembourg, Denmark, UK, Ireland, Greece, Spain and Portugal.
Economic Nationalism	A desire to make a nation completely self-sufficient in terms of trade, so that it requires neither imports nor exports for its economic well-being; also known as autarchy or national self-sufficiency.
EDC	Export Development Corporation. The Canadian Crown Corporation which provides exporters with a variety of financing services, largely on a cost recovery basis, including credit, insurance and loan guarantees.
EFTA	European Free Trade Agreement, comprising Austria, Switzerland, Finland, Iceland, Norway and Sweden.
Embargo	A prohibition upon exports or imports, either with respect to specific products or specific countries. Historically, embargoes have been ordered most frequently in time of war, but they may also be applied for political, economic or sanitary purposes. Embargoes imposed against and individual country by the United Nations -- or a group of nations -- in an effort to influence its conduct or its policies are sometimes called "sanctions".
Emergency Restrictions	See Escape Clause and Safeguards.
EMR	Canadian Department of Energy, Mines and Resources

End-use Tariff Item	Tariff classification where the rate of duty depends upon the use to which the imported product is put, e.g. cotton sheeting for medical use taxed at a lower rate than all other cotton sheeting.
Escape Clause	A provision in a bilateral or multilateral commercial agreement permitting a signatory nation to suspend tariff or other concessions when imports threaten serious harm to the producers of competitive domestic goods. GATT Article XIX sanctions such "safeguard" provisions to help firms and workers adversely affected by a relatively sudden surge of imports, adjust to the rising level of import competition. See also Safeguards.
Establishment	One of the basic principles which comprise national treatment for investors. Right of establishment involves providing foreign investors the right to establish new businesses on the same basis as nationals.
Exceptions	Provisions in a trade agreement which provide for rules to deal with special circumstances, such as import or export controls for security reasons. GATT Articles XX and XXI provide for the basic exceptions to the GATT.
Exchange Controls	The rationing of foreign currencies, bank drafts, and other instruments for settling international financial obligations by countries seeking to ameliorate acute balance of payments difficulties. When such measures are imposed, importers must apply for prior authorization from the government to obtain the foreign currency required to bring in designated amounts and types of goods. Since such measures have the effect of restricting imports, they are considered non-tariff barriers to trade.
Exchange Rate	The price (or rate) at which one currency is exchanged for another currency, for gold, or for Special Drawing Rights (SDR'S).
Excise Tax	A selective tax -- sometimes called a consumption tax -- on certain goods produced within or imported into a country.
Exemptions	Provisions which exempt particular products or situations from a general rule, e.g., in a free-trade area eliminating all tariffs, agriculture might be exempted from this provision.

Eximbank

The Export-Import Bank of the United States, known as Eximbank, facilitates and aids in financing exports of US goods and services. Eximbank has implemented a variety of programs to meet the needs of the US exporting community, according to the size of the transaction. These programs take the form of direct lending or the issuance of guarantees and insurance, so that exporters and private banks can extend appropriate financing without taking undue risks. Eximbank's direct lending program is limited to larger sales of US products and services around the world. The guarantees, insurance, and discount programs have been designed to assist exporters in smaller sales of products and services.

Export and Import Permits Act

Canadian legislation which provides the mechanism (licensing) by which exports from Canada and imports into Canada can be controlled. Three basic controlling lists are prescribed under the Act: an Import Control List, and Export Control List and an Area Control List. Any product listed on the first two lists or any exports to a country on the third list requires a permit, the conditions for which may be prescribed by Order-in-Council.

Export Quotas

Specific restrictions or ceilings imposed by an exporting country on the value or volume of certain imports, designed to protect domestic producers and consumers from temporary shortages of the goods affected or to bolster their prices in world markets. Some International Commodity Agreements explicitly indicate when producers should apply such restraints. Export Quotas are also often applied in Orderly Marketing Agreements and Voluntary Restraint Agreements, and to promote domestic processing of raw materials in countries that produce them.

Export Restraints

Quantitative restrictions imposed by exporting countries to limit exports to specified foreign markets, usually pursuant to a formal or informal agreement concluded at the request of the importing countries.

Export Subsidies	Government payments or other financially quantifiable benefits provided to domestic producers or exporters contingent on the export of their goods or services. GATT Article XVI recognizes that subsidies in general, and especially export subsidies, distort normal commercial activities and hinder the achievement of GATT objectives. An Agreement on Subsidies and Countervailing duties negotiated during the Tokyo Round strengthened the GATT rules on export subsidies and provided for an outright prohibition of export subsidies by developed countries for manufactured and semi-manufactured products. The Agreement also established a special committee, serviced by signatories. Under certain conditions, the agreement allows developing countries to use export subsidies on manufactured and semi-manufactured products, and on primary products as well, provided that the subsidies do not result in more than an equitable share of world exports of the product for the country.
Export Trading Company	A corporation or other business unit organized and operated principally for the purpose of exporting goods and services, or of providing export related services to other companies. The Export Trading Company Act of 1982 exempts authorized trading companies from certain provisions of US anti-trust laws.
Extra-territoriality	The application of national laws, policies and practices beyond the frontier. The USA actively practices the extra-territorial application of its laws, e.g., in the area of anti-trust and strategic export controls through its influences over the head offices of US-owned multi-national enterprises.
FAS	The term "Free Alongside Ship", in international trade, refers to the point of embarkation from which the vessel or plane selected by the buyer will transport the goods. Under this system, the seller is obligated to pay the costs and assume all risks for transporting the goods from his place of business to the FAS point. In trade statistics, "FAS value" means that the import or export figures are calculated on this basis, regardless of the nature of individual transactions reflected in the statistics.
Fair Trade	See Unfair Trade.

Fast-track procedures

Legislative procedures set forth in Section 151 of the Trade Act of 1974, stipulating that once the President formally submits to Congress a bill implementing an agreement (negotiated under the act's authority) concerning non-tariff barriers to trade, both houses must vote on the bill within 90 days. No amendments are permitted. The purpose of these procedures is to assure foreign governments that Congress will act expeditiously on an agreement they negotiate with the US government. Under current law, the fast-track procedures expire on 3 January 1988.

FOB

An abbreviation used in some international sales contracts, when imports are valued at a designated point, as agreed between buyer and seller, that is considered "Free on Board." In such contracts, the seller is obligated to have the goods packaged and ready for shipment from the agreed point, whether his own place of business or some intermediate point, and the buyer normally assumes the burden of all inland transportation costs and risks in the exporting country, as well as all subsequent transportation costs, including the costs of loading the merchandise on the vessel. However, if the contract stipulates "FOB vessel" the seller bears all transportation costs to the vessel named by the buyer, as well as the costs of loading the goods onto that vessel. The same principle applies to the abbreviations "FOR" ("Free on Rail") and "FOT" ("Free on Truck").

Foreign Exchange Controls

Limitations or restrictions on the use of certain types of currency, bank drafts, or other means of payment in order to regulate imports, exports, and the balance of payments.

Foreign Investment Review Agency

Agency established by the Canadian federal government in 1974, to monitor and screen (FIRA) direct foreign investment with a view to ensuring that such investment would be of direct benefit to Canada. Its work created major difficulties in Canada-US relations and was disliked by the business community. It was replaced in 1984 by Investment Canada which has a mandate to attract foreign direct investment to Canada.

Foreign Sales Corporation (FSC)

A firm incorporated in Guam, the US Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, or any foreign country that has a satisfactory exchange-of-information agreement with the United States and elects to be taxed as a US corporation, except for the fact that it exempts from taxable income, a portion of the combined net income of the FSC and its affiliated supplier on the export of US products.

Framework Agreement

A trade agreement limited to a broad statement of objectives but including institutional arrangements to facilitate the attainment of these objectives.

Free Trade	An economic concept, used for analytical purposes, to denote trade unfettered by government-imposed trade restrictions; also used as a general term to denote the end result of a process of trade liberalization. Free trade is the comparative term used to denote circumstances between current practice and the achievement of free trade.
Free Trade Area	A cooperative arrangement among two or more nations which agree to remove substantially all tariff and non-tariff barriers to trade with each other, while each maintains its differing schedule of tariffs applying to all other nations.
Free Trade Zone	An area within a country (a seaport, airport, warehouse or any designated area) regarded as being outside its customs territory. Importers may therefore bring goods of foreign origin into such an area without paying customs duties and taxes, pending their eventual processing, transshipment or re-exportation. Free zones were numerous and prosperous during an earlier period when tariffs were high. Some still exist in capital cities, transport junctions and major seaports, but their number and prominence have declined as tariffs have fallen in recent years. Free zones may also be known as "free ports", "free warehouses", and "foreign trade zones".
Functional Trade Agreement	A trade agreement limited to a particular type of measure used to restrict or manage trade, such as government procurement, emergency safeguards or countervailing duties.
GATT	The General Agreement on Tariffs and Trade (GATT) is a multilateral treaty, subscribed to by 93 countries which together account for more than four-fifths of world trade, which delineates rules for international trade. The primary objective of the GATT is to liberalize world trade and place it on a secure basis, thereby contributing to global economic growth and development.
Generalized System of Preferences (GSP)	A concept developed within UNCTAD to encourage the expansion of manufactured and semi-manufactured exports from developing countries by making goods more competitive in developed country markets through tariff preferences. The GSP reflects international agreement, negotiated at UNCTAD II in New Delhi in 1968, that a temporary and non-reciprocal grant of preferences by developed countries to developing countries would be equitable and, in the long term, mutually beneficial.
GNP	Gross National Product
Government Procurement	The term refers to purchases of goods and services by official government agencies. As a non-tariff barrier to trade it refers to discriminatory purchases from domestic suppliers, even when imported goods are more competitive. See also Buy-National.

Graduation	A concept pertaining to developing countries, whereby as they advance economically and become more developed, they assume greater responsibilities and obligations within the international trading system. This term also applies to the Generalized System of Preferences, whereby certain more advanced developing countries may be removed or "graduated" from eligibility on individual GSP eligible products.
Grandfather Clause	A GATT provision that allowed the original contracting parties to accept general GATT obligations despite the fact that some existing domestic legislation was otherwise inconsistent with GATT provisions. See Protocol of Provisional Accession and Residual Restrictions. More generally, any clause in an agreement which provides that certain existing programs, practices and policies are exempt from an obligation.
Harmonized System	See Customs Harmonization.
IBRD (World Bank)	International Bank for Reconstruction and Development, established, together with the International Monetary Fund, after the Bretton Woods Conference in 1944. Its purpose was to help countries to reconstruct their economies after the damage inflicted by the war. It is prepared to assist member countries by lending to governmental agencies or by guaranteeing private loans. Loans are usually for fifteen to twenty years and finance agricultural modernization, hydro-electric schemes, port improvements, and general programs of economic reconstruction. The funds come from the developed countries and the Bank acts as a medium-term loan agency in channeling them to the less developed countries.
IMF	International Monetary Fund, established at Bretton Woods in 1944. Its purpose was to restore and promote monetary and economic stability. Its headquarters are in Washington. All OECD and most developing countries are members.
Import Policy	Encompasses traditional government policies intended to provide a favorable economic climate for the development of industry in general or specific industrial sectors. Instruments of industrial policy may include tax incentives to promote investments or exports, direct or indirect subsidies, special financing arrangements, protection against foreign competition, worker training programs, regional development programs, assistance for research and development, and measure to help small business firms. Historically, the term industrial policy has been associated with at least some degree of centralized economic planning or indicative planning, but this connotation is not always intended by its contemporary advocates.

Import Substitution	An attempt by a country to reduce imports (and hence foreign exchange expenditures) by encouraging the development of domestic industries.
Import Quota	See Quantitative Restriction.
Industrial Policy	Governmental actions affecting, or seeking to affect, the sectoral composition of the economy by influencing the development of particular industries.
Industrial targetting	The selection by a national government, of industries important to the next stage of the nation's economy, and encouragement of their development through explicit policy measures. A frequent goal of such targeting is competitiveness in export markets.
Infant Industry Argument	The view that "temporary protection" for a new industry or firm in a particular country through tariff and non-tariff barriers to imports can help it to become established and eventually competitive in world markets. Historically, new industries that are soundly based and efficiently operated have experienced declining costs as output expands and production experience is acquired. However, industries that have been established and operated with heavy dependence on direct or indirect government subsidies have sometimes found it difficult to relinquish that support. The rationale underlying the Generalized System of Preferences is comparable to that of the infant industry argument.
Injury	The term used in international commerce to describe the effect on domestic producers of a decline in output, lost sales, decline in market share, reduced profits and return on investment, reduced capacity utilization, etc., as a result of import competition. A distinction is often made between serious injury (required for emergency safeguard measures) and material injury (required for anti-dumping and countervailing duties).
Injury	The requirement, under GATT, that an industry seeking trade relief establish that it has been hurt by foreign competition. In the United States, a finding of injury has always been required for escape clause relief, and since 1979 for the bulk of CVD and anti-dumping cases as well.
Intellectual Property	A collective term used to refer to new ideas, inventions, designs, writings, films, etc. and protected by copyright, patents, trademarks, etc.
International Joint Commission	Bilateral Canada-US body responsible for investigating complaints of water pollution and recommending remedial action. It is often cited as model for dispute resolution in the trade area.

International Trade Commission	See US International Trade Commission.
Investment Canada	See FIRA.
Investment Performance Requirements	Special conditions imposed on direct foreign investment by recipient governments, sometimes requiring commitments to export a certain percentage of the output, to purchase given supplies locally, or to ensure the employment of a specified percentage of local labor and management.
Invisible Trade	Items such as freight, insurance, and financial services that are included in a country's balance of payments accounts (in the "current" account), even though they are not recorded as physically visible exports and imports.
ISAC	Industry Sector Advisory Committee. Part of formal advisory structure to the US government used during trade negotiations. See also ACTN.
ITA	International Trade Administration of the US Department of Commerce, the branch of government responsible for anti-dumping and countervailing duty investigations under US law. Once the ITA establishes the existence of dumping and subsidization, the ITC determines whether or not there is injury.
ITAC	International Trade Advisory Committee. A committee of 33 private sector leaders chaired by Walter Light, which advises the Canadian government on trade negotiations. See also SAGIT.
ITO	International Trade Organization, the still-born organization which was to do for trade what the IMF has done for the management of international monetary issues. GATT, the commercial policy chapter of the Havana Charter for an ITO, has gradually gained organizational status and now performs this function.
Joint Venture	A form of business partnership involving joint management and the sharing of risks and profits as between enterprises based in different countries. If joint ownership of capital is involved the partnership is known as an equity joint venture.
Kennedy Round	The sixth in a series of multilateral trade negotiations.
Kyoto Convention	The major international agreement covering customs procedures. It is administered by the Customs Cooperation Council in Brussels and under its auspices, international specialists yearly add to international standardization of custom's procedures by adding protocols and annexes to the Convention.

Least Developed Countries (LDC's)	Some 36 of the world's poorest countries, considered by the United Nations to be the least developed of the less developed countries. Most of them are small in terms of area and population, and some are land-locked or small island countries. They are generally characterized by low per capita incomes, literacy levels, and medical standards; subsistence agriculture; and a lack of exploitable minerals and competitive industries. Many suffer from aridity, floods, hurricanes, and excessive animal and plant pests, and most are situated in the zone 10 to 30 degrees north latitude. These countries have little prospect of rapid economic development in the foreseeable future and are likely to remain heavily dependent upon official development assistance for many years. Most are in Africa, but a few , such as Bangladesh, Afghanistan, Laos, and Nepal, are in Asia. Haiti is the only country in the Western Hemisphere classified by the United Nations as "least developed". See developing countries.
Liberalization	Reductions in tariff and other measures that restrict world trade, unilaterally, bilaterally or multilaterally. Trade liberalization has been the objective of all GATT trade negotiations.
Linear reduction of tariffs	A reduction, by a given percentage, in all tariffs maintained by all countries participating in a given round of trade negotiations, unless there are explicit "exceptions". Exceptions usually are confined to products so "sensitive" that increased imports might cause severe political and economic difficulties. This approach to negotiating tariff reductions was used in the Kennedy Round to avoid the difficulties involved in item-by-item negotiations. Also known as Across-the-Board Tariff Reductions. See also Harmonization.
Macroeconomic policy	Policy geared toward influencing the overall aggregates of the economy, such as employment, production, and the rate of inflation, through measures affecting the fiscal balance and the supply of money and credit.
Market Access:	Availability of a national market to exporting countries, i.e., reflecting a government's willingness to permit imports to compete relatively unimpeded with similar domestically produced goods.
Market Disruption:	Situation existing when a surge of imports in a given product line in a particular country causes sales of domestically produced goods to decline to an extent that the domestic producers and their employees suffer major economic reversals.

Mercantilism	A prominent economic philosophy in the 16th and 17th centuries that equated the accumulation and possession of gold and other international monetary assets, such as foreign currency reserves, with national wealth. Although this point of view is generally discredited among 20th century economists and trade policy experts, some contemporary politicians still favour policies designed to create trade "surpluses", such as import substitution and tariff protection for domestic industries, as essential to national economic strength.
MFA	See Multi-Fiber Arrangement regarding International Trade in Textiles.
MFN	See Most-Favoured-Nation Treatment.
Mixed Credits	Exceptionally liberal financing terms for an export sale, ostensibly provided for a foreign aid purpose.
Most-Favoured-Nation Treatment (MFN)	A commitment that a country will extend to another country the lowest tariff rates it applies to any third country. The MFN principle has provided the foundation of the world trading system since the end of World War II. All Contracting Parties to GATT apply MFN treatment to one another under Article I of GATT. Exceptions to this basic rule are allowed in the formation of regional trading arrangements, provided certain strict criteria are met. See also National treatment.
MTN	See Multilateral Trade Negotiations.

Multi-Fibre Arrangement regarding Trade in Textiles (MFA)	An international compact under GATT that allows an importing signatory country to apply quantitative restrictions on textiles when it considers them necessary to prevent market disruption. The MFA provides a framework for regulating international trade in textiles and apparel with the objectives of achieving "orderly marketing" of such products, and of avoiding "market disruption" in import countries. It provides a basis on which major importers, such as the United States and the European Community, may negotiate bilateral agreements or, if necessary, impose restraints on imports from low-wage producing countries. It provides, among other things, standards for determining market disruption, minimum levels of import restraints, and annual growth of imports. Since an importing country may impose such quotas unilaterally to restrict rapidly rising textiles imports, many important textiles-exporting countries consider it advantageous to enter into bilateral agreements with the principal textiles-importing countries. The MFA went into effect of Jan. 1, 1974, was renewed in December 1977, in December 1981, and again in July 1986, for five years. It succeeded the Long-term Agreement on International Trade in Cotton Textiles ("The LTA"), which had been in effect since 1962. Whereas the LTA applied only to cotton textiles, the MFA now applies to wool, man-made (synthetic) fiber, silk blend and other vegetable fiber textiles and apparel.
Multilateral Agreement	An international compact involving three or more parties. For example, GATT has been, since its establishment in 1947, seeking to promote trade liberalization through multilateral negotiations.
Multilateral Trade Negotiations (MTN)	Seven Rounds of "Multilateral Trade Negotiations" have been held under the auspices of GATT since 1947. Each Round represented a discrete and lengthy series of interacting bargaining sessions among the participating Contracting Parties in search of mutually beneficial agreements looking toward the reduction of barriers to world trade. The agreement ultimately reached at the conclusion of each Round became new GATT commitments and thus amounted to an important step in the evolution of the world trading system.
National Treatment	This expression refers to the extension to imported goods of a treatment no less favourable than that accorded to domestic products with respect to internal taxes, laws, regulations and requirements. GATT members are obliged to accord to one another "national treatment" with respect to internal measures that can affect trade.

NEP	National Energy Program. Program adopted by the Canadian federal government in 1979 to increase Canadian control and ownership of the energy industry and stimulate exploration and exploitation of Canada's energy resources in a planned and coherent manner. Its more nationalistic elements strained Canada-US relations and together with FIRA stood as symbols of Canadian economic nationalism. Many of its more objectionable principles were withdrawn in 1985-86.
Newly Industrializing Countries (NICs)	Advanced developing countries whose industrial production exports have grown rapidly in recent years. Examples include Brazil, Hong Kong, Korea, Mexico, Singapore, and Taiwan.
Non-Market Economy	A national economy or a country in which the government seeks to determine economic activity largely through a mechanism of central planning, as in the Soviet Union, in contrast to a market economy that depends heavily upon market forces to allocate productive resources. In a "non-market" economy, production targets, prices, costs, investment allocations, raw materials, labor, international trade, and most other economic aggregates are manipulated within a national economic plan drawn up by a central planning authority, and hence the public sector makes the major decisions affecting demand and supply within the national economy. See also State-Trading Countries.
Non-Tariff Barriers or Measures	Government measures or policies other than tariffs which restrict or distort international trade. Examples include import quotas, discriminatory government procurement practices, measures to protect intellectual property. Such measures have become relatively more conspicuous impediments to trade as tariffs have been reduced during the period since World War II.
OECD	Organization for Economic Cooperation and Development. Paris-based organization of industrialized countries responsible for study and cooperation of broad range of economic, trade, scientific and educational issues. Membership includes US, Canada, Japan, Australia, New Zealand, France, Italy, Belgium, Germany (FR), Netherlands, Luxembourg, Denmark, UK, Ireland, Greece, Spain, Portugal, Austria, Switzerland, Finland, Iceland, Norway, Sweden, Turkey and Yugoslavia.
OPEC	Organization of Petroleum Exporting Countries

Orderly Marketing Agreements (OMAs)	International agreements negotiated between two or more governments, in which the trading partners agree to restrain the growth of trade in specified "sensitive" products, usually through the imposition of import quotas. Orderly Marketing Agreements are intended to ensure that future trade increases will not disrupt, threaten or impair competitive industries or their workers in importing countries.
Panel of Experts	Subgroups of the GATT established by the contracting parties on an ad hoc basis to study a particular facet of GATT work. Panels are generally composed of three to five persons who serve in their individual capacity, acting not as representatives of nations but as experts or objective judges of particular matters.
Par Value	The official fixed exchange rate between two currencies or between a currency and a specific weight of gold or a basket of currencies.
Phasing	See transitional measures.
Predatory Pricing	Business practice which involves the deliberate charging of prices at a level low enough to drive a competitor out of business or deter entry by new competitors. It is usually directed towards competitors at the same level or production or distribution as the offender. Both Canadian and US laws on competition consider predatory pricing as an offence.
Price Discrimination	Business practice which involves charging different customers different prices for the same product, by differentiating between groups of customers. It may be used to benefit the seller or the buyer of the product. Both Canadian and US laws on competition consider certain types of price discrimination as offences.
Principal Supplier	The country that is the most important source of a particular product imported by another country. In negotiations conducted under GATT, a country offering to reduce import duties or other barriers on a particular item generally expects the principal supplier of the imported item to offer, in exchange, to reduce restrictions on an item. Both countries then automatically grant the same concessions to all other countries to which they have agreed to accord most-favored-nation treatment, including all contracting parties to GATT. Most-Favoured-Nation Treatment and Reciprocity.
Protectionism	The deliberate use or encouragement of restrictions on imports to enable relatively inefficient domestic producers to compete successfully with foreign producers.

Quantitative Restrictions (QR's)

Explicit limits or quotas, on the physical amounts of particular commodities that can be imported or exported during a specified time period, usually measured by volume but sometimes by value. The quota may be applied on a "selective" basis, with varying limits set according to the country of origin, or on a quantitative global basis that only specifies the total limit and thus tends to benefit more efficient suppliers. Quotas are frequently administered through a system of licensing. GATT Article XI generally prohibits the use of quantitative restrictions, except under conditions specified by other GATT articles; Article XIX permits quotas to safeguard certain industries from damage by rapidly rising imports; Article XII Article XVIII provide that quotas may be imposed for balance of payments reasons under circumstances laid out in Article XV; Article XX permits special measures to apply to public health, gold stocks, items of archeological or historic interest and several other categories of goods; and Article XXI recognizes the overriding importance of national security. Article XII provides that quantitative restrictions, whenever applied, should be non-discriminatory.

Quasi-judicial

Procedures through which law is made by procedures regulatory agencies applying general statutes to specific cases. On trade, procedures administered by the US International Trade Commission and the Department of Commerce determine the eligibility of petitioners for import relief under the escape clause, countervailing duty, anti-dumping, and other trade statutes.

Quebec Declaration

Statement of political intent adopted by Prime Minister Brian Mulroney and President Ronald Reagan at Quebec City, March 18 1985, providing for formal exploration of a free-trade agreement covering trade in goods and services.

Quota

A limit of the quantity of a product may be imported by (or sold to) a country. Import quotas are enforced by the receiving nation, export quotas by the country of origin.

Reciprocal Trade Agreements Act of 1934

The law which provided authority for the US government to enter into bilateral agreements for reciprocal tariff reductions. Through successive extensions and amendments, it also authorized US participation in the first five GATT Rounds of multilateral trade negotiations. It was superseded by the Trade Expansion Act of 1962.

Reciprocity	The practice by which governments extend similar concessions to each other, as when one government lowers it tariffs or other barriers impeding its imports in exchange for equivalent concessions from a trading partner on barriers affecting its exports (a "balance of concessions"). Reciprocity has traditionally been a principal objective of negotiators in GATT "Rounds." Reciprocity is also defined as "mutuality of benefits," "quid pro quo," and "equivalence " of "advantages." GATT Part IV (especially GATT Article XXXVI) and the "Enabling Clause" of the Tokyo Round "Framework Agreement" exempt developing countries from the rigorous application of reciprocity in their negotiations with developed countries.
Reciprocity Agreement	Historical term referring to trade agreements between Canada and the Untied States providing for reciprocal trade concessions, including the 1854 Elgin-Marcy Treaty and the aborted 1911 agreement.
Residual Restrictions	Quantative restrictions that have been maintained by governments before they became contracting parties to GATT and, hence, permissible under the GATT "grand-father clause". Most of the residual restrictions still in effect are maintained by developed countries against the imports of agricultural products. See also Grandfather Clause, and Quantative Restrictions.
Restrictive Business Practices (RBP's)	Action taken by a country whose exports are adversely affected by the raising of tariffs on other trade restricting measures by another country. The GATT permits an adversely affected country to impose limited restraints on imports from a country that has raised its trade barriers after consultations with countries whose trade might be affected. In theory, the volume of trade affected by such retaliatory measure should approximate the volume of trade affected by the precipitating change in import protection.
Retaliation	Action taken by a country to restrain its imports from a country that has increased a tariff or imposed other measures that adversely affect its exports in a manner inconsistent with GATT. The GATT, in certain circumstances, permits such reprisal, although this has very rarely been practiced. The value of trade affected by such retaliatory measures should, in theory, approximately equal the value affected by the initial import restriction.

Reverse Preferences	Tariff advantages once offered by developing countries to imports from certain developed countries that granted them preferences. Reverse preferences characterized trading arrangements between the European Community and some developing countries prior to the advent of the Generalized System of Preferences (GSP) and the signing of the Lome Convention, See European Community, Generalized System of Preferences.
Round of Trade Negotiations	A cycle of multilateral trade negotiations under the aegis of GATT, culminating in simultaneous trade agreements among participating countries to reduce tariff and non-tariff barriers to trade. Seven "Rounds" have been completed thus far: Geneva, 1947-48; Annecy, France 1949; Torquay, England, 1950-51; Geneva, 1956; Geneva, 1960-62 (the Dillon Round); Geneva, 1963-67 (the Kennedy Round); and Geneva, 1973-79 (the Tokyo Round). A new round, the Uruguay Round, started in September, 1986.
Rules of Origin	The term for the set of measures used to differentiate between goods originating in one country from those in another for the purpose of the application of trade measures such as tariffs. For example, goods made up of components originating in various countries but which when assembled add 50% to their overall value may be considered to be goods originating in one country, whereas the addition of 25% in value would not qualify. Such rules are very important for countries which are members of a free-trade area.
Safeguards	The term safeguards refers to emergency actions in the form of additional duties or import quotas applied to fairly traded imports which nevertheless cause of threaten serious injury to domestic producers.
SAGIT	Sectoral Advisory Group on International Trade. Fifteen such groups have been established to provide the Canadian federal government with advice on trade negotiations from a sectoral perspective. See also ITAC.
Section 301 (of the Trade Act of 1974)	Provision of US law that enables the President to withdraw concessions or restrict imports from countries that discriminate against US exports, subsidize their own exports to the United States, or engage in other unjustifiable or unreasonable practices that burden or discriminate against US trade. Canada enacted similar legislation in the Special Imports Act of 1984.

Sectoral Reciprocity	The principle or practice of comparing the openness of national markets to imports sector by sector, and negotiating restraints sector by sector, rather than across entire economies. US advocates of a sectoral reciprocity approach to trade in telecommunications or wine, for example, propose to compare the levels of US and foreign barriers to imports of these products, and to equalize them, either by negotiating reductions in foreign restraints or by raising our own. A modified version of sectoral reciprocity was enacted into law as Title III of the Trade and Tariff Act of 1984.
Sectoral Trade Agreement	A Trade agreement limited in its application to a particular group of related products comprising a sector. The Autopact is an example of a bilateral sectoral agreement and the GATT Aircraft Agreement is an example of a multilateral sectoral agreement.
Services	Economic activities the result of which is the provision of services rather than goods. Includes such diverse activities as transportation, communications, insurance, banking, advertising, consulting, distribution, engineering, medicine, education, etc. It is the fastest growing area of economic activity in Canada. Two-thirds of working Canadians are now employed in the service sector. Trade in services takes place when a service is exported from a supplier nation to another nation, such as an international airflight, or the extension of credit, or the design of a bridge.
Smoot-Hawley Tariff Act of 1930	US protectionist legislation that raised tariff rates on most articles imported by the United States, triggering comparable tariff increase by US trading partners. The Tariff Act of 1930 is also known as the Smoot-Hawley Tariff. Many of its non-tariff provisions, e.g., those pertaining to anti-dumping or countervailing duties, remain law today,either in its original form or as amended.
Special Drawing Rights (SDR's)	Created in 1969 by the IMF as a supplemental international monetary reserve asset. SDR's are available to governments through the Fund and may be used in transactions between the fund and member governments. IMF member countries have agreed to regard SDR's as complementary to gold and reserve currencies in settling their international accounts. The union value of an SDR reflects the foreign exchange value of a "basket" of currencies of several major trading countries (the US dollar, the German mark, the French franc, the Japanese yen, the British pound). The SDR has become the unit of account used by the Fund and several national currencies are pegged to it. Some commercial banks accept deposits denominated in SDR's (although they are unofficial and not the same units transacted among governments and the fund).

Special Import Measures Act (SIMA)
: Canadian legislation adopted in 1984 following four years of study and debate incorporating Canadian rights and obligations flowing from the Tokyo Round in the area of anti-dumping and countervailing duties and safeguards procedures. It provides for basically similar provisions covering anti-dumping and countervailing procedures including separate investigations of the existence of dumping and subsidization and their margin by National Revenue and of injury by the Canadian Import tribunal.

Specific Duty or Tariff
: An import tax set at a fixed amount per unit or per unit of measure regardless of the value of the item imported. For comparison, see Ad Valorem Tariff.

Standards
: As defined by the MTN "Agreement on technical Barriers to trade "(Standards Code), a standard is a technical specification continued in a document that lays down characteristics of a product such as levels of quality, performance, safety, or dimensions. It may include, or deal exclusively with, terminology, symbols, testing and test methods, packaging, marking, or labeling requirements as they apply to a product.

State-Trading Nations
: Countries such as the Soviet Union, the People's Republic of China and nations of Eastern Europe that rely heavily on government entities, instead of the private sector, to conduct trade with other countries. Some of these countries, (e.g. Czechoslovakia and Cuba) have long been Contracting parties to GATT, whereas others (e.g., Poland, Hungary, and Romania), became Contracting Parties later under special Protocols of Accession. The different terms and conditions under which these countries acceded to GATT were designed in each case to ensure steady expansion of the country's trade with other GATT countries, taking into account the relative insignificance of tariffs on imports into state trading nations.

Structural Change	Alternations in the relative significance of the productive components of a national or international economy that take place over time. Expansion in the economy as a whole, or temporary shifts in the relationship of its components as a result of cyclical developments, would not be considered structural changes. Since the industrial revolution, structural change in most countries has resulted principally from changes in comparative advantage associated with technological advance, but also to a lesser degree from changes in consumer preference. Is has involved shifts from subsistence agriculture to commercial agriculture, reduction in the percentage of the labor force engaged in agriculture, and increase in the relative significance of manufacturing, and, at a later stage, a further shift toward service industries. Other major structural changes involve shifts in the economic importance between various industries, shifts between regions of large national economies, and changes in the composition of exports and imports. See also Comparative Advantage.
Subsidies Code	A code of conduct negotiated under the auspices of GATT during the Tokyo Round of the MTN that expanded on Article VI by establishing both substantive and procedural standards for national countervailing duty proceedings as well as developing obligations under Articles XVI and XXIII regarding notification and dispute settlement in the area of subsidy practices. See also Code of Conduct and Subsidy.
Subsidy	An economic benefit granted by a government to producers of goods often to strengthen their competitive position. The subsidy may be direct (a cash grant) or indirect (low-interest export credits guaranteed by a government agency, for example).
Surcharge or surtax	A tariff or tax on imports in addition to the existing tariff, often used as an emergency safeguard measure.
Tariff	A duty (or tax) levied upon goods transported from one customs area to another. Tariffs raise the prices of imported goods, thus making them less competitive within the market of the importing country. After seven "Rounds" of GATT trade negotiations that focused heavily on tariff reductions, tariffs are less important measures of protection than they used to be. The term "tariff" often refers to a comprehensive list or "schedule" of merchandise with the rate of duty to be paid to the government for importing products listed. The tariff rate is the rate at which imported goods are taxed.

Tariff Act 1930	An omnibus US trade bill also known as the Smoot-Hawley Tariff Act which, while often amended and added to, provides the basic trade law of the United States, particularly as regards to anti-dumping and countervailing duties. Its tariff provisions raised the US tariff to unprecedented levels and contributed to the Great Depression of the 1930s. Smoot-Hawley became synonymous with the beggar-thy-neighbor policies of that period.
Tariff Escalation	A situation in which tariffs on manufactured goods are relatively high, tariffs on semi-processed goods are moderate, and tariffs on raw materials are nonexistent or very low. Such "escalation" which exists in the tariff schedules of most developed countries is said to discourage the development of manufacturing industries in resource rich countries.
Tariff Schedule	A comprehensive list of the goods which a country imports and the import duties applicable to each product.
Terms of trade	The volume of exports that can be traded for a given volume of imports. Changes in the terms of trade are generally measured by comparing changes in the ratio of export prices to import prices. The terms of trade are considered to have improved when a given volume of exports can be exchanged for a larger volume of imports. Some economists have discerned an overall deteriorating trend in this ratio for developing countries as a whole. Other economists maintain that whereas the terms of trade may have become less favourable for certain countries during certain periods -- and even for all developing countries during some periods -- the same terms of trade have improved for other developing countries in the same periods and perhaps for most developing countries during other periods.
Third Option	The policy option adopted by the federal government in 1973 by which the government sought to adopt domestic policies (such as the subsequent FIRA and NEP) as well as strengthen trade relations with Europe and Japan as a counterweight to growing trade and economic dependence on the US market.
Tied Loan	A loan made by a government agency that requires a foreign borrower to spend the proceeds in the lender's country.
TNO	Trade Negotiations Office. The special office established by Canada in 1985 to prepare for and conduct bilateral negotiations with the United States as well as multilateral trade negotiations.
Tokyo Round	Seventh in a series of multilateral trade negotiations held under the auspices of GATT, launched in Tokyo in 1973 and concluded in 1979.

Trade Act of 1974

US legislation signed into law on 3 January 1975, which granted the President authoriy to enter the Tokyo Round and negotiate international agreements to reduce tariffs and NTBs. (See also fast-track procedures.) The act also amended US law governing the escape clause, anti-dumping, and countervailing duties; expanded trade adjustment assistance; established guidelines for granting MFN status to East bloc states; and granted limited trade preferences (GSP) to less developed countries.

Trade Agreements Act of 1979

Legislation, adopted under the fast-track procedures, which approved and implemented the trade agreements negotiated during the Tokyo Round. It made US law consistent with the MTN agreements, while at the same time rewriting the countervailing duty and anti-dumping laws, extending the President's authority to negotiate NTB agreements, and requiring the President to reorganize executive branch trade functions.

Trade Expansion Act of 1962

US Legislation authorizing US participation in the Kennedy Round of trade negotiations, which also amended US escape clause procedures and established the Trade Adjustment Assistance (TAA) program.

Trade Diversion

A shift in the source of imports which occurs as a result of altering a country's import policies or practices, without regard for any increase in importation of the item or items involved. For example, the establishment of a customs union will cause countries participating in the new economic unit to import goods from other countries in the union that previously were imported from countries outside the union. According to some trade theorists, if the "trade creation" resulting from the customs union that is, the new trade taking place that would not have taken place otherwise exceeds the trade diversion, the customs union will raise welfare, because it will entail a more efficient allocation of resources.

Trade Liberalization

A general term used to denote the gradual process of removing tariff and non-tariff barriers. Seven rounds of negotiations under GATT, since 1947, have resulted in a large measure of trade liberalization among industrialized countries.

Trade and Tariff Act of 1984

An omnibus trade bill whose provisions included extension of the President's authority to grant trade preferences, authorization for negotiating a free-trade agreement with Israel, and authority to enforce export restraint agreements on steel.

Transfer of Technology	The movement of modern or scientific methods of production or distribution from one enterprise, institution or country to another, as through foreign investment, international trade licensing of patent rights, technical assistance or training.
Transitional Measures	Those measures in place for a limited period of time during which a new trade agreement is gradually implemented. The Tokyo Round tariff cuts, for example, are being phased in over a period of eight years. Other transitional measures could include, for example, the right to take certain temporary safeguard measures or apply adjustment assistance measures.
Transparency	Visibility and clarity of laws and regulations. Some of the codes of conduct negotiated during the Tokyo Round sought to increase the transparency of non-tariff barriers that impede trade.
Trigger Price Mechanism (TPM)	A system, developed and enforced during the Carter administration, of restraining steel imports by monitoring them for possible dumping. Under the TPM, an anti-dumping investigation was to be "triggered" if the price of an imported steel product was below the production costs of the world's most efficient producer of that product.
UNCTAD	United Nations Conference on Trade and Development. A quasi-autonomous body within the United Nations system, intended to focus special attention on measures that might be taken to accelerate the pace of economic development in the developing countries. The conference was first convened in Geneva in 1964, and has met quadrennially since that date.
Unfair Trade	An American term used to describe trade in dumped, subsidized or counterfeit goods; the application of the term has steadily widened as US trade remedy laws have defined new practices which are considered to harm the export and import interests of US companies.
Uruguay Round	Eighth in a series of multilateral trade negotiations held under the auspices of GATT. This round was launched at Punta del Este, Uruguay in September, 1986.

USITC	US International Trade Commission. An independent US fact-finding and regulatory agency whose six members make determinations of injury and recommendations for relief for industries or workers seeking relief from increasing import competition. In addition, upon the request of Congress or the President, or on its own initiative, the Commission conducts comprehensive studies of specific industries and trade problems, and the probable impact on specific US industries of proposed reductions in US tariffs and non-tariff trade barriers. The USITC was created by the Trade Act of 1974 as the successor agency to the US Tariff Commission, which was created in 1916.
USTR	United States Trade Representative. An official in the Executive Office of the President, with cabinet-level and ambassadorial rank, charged with advising the President and leading and coordinating the US government on international trade negotiations and the development of trade policy. (USTR also designates the White House office which the representative heads). Established by the Carter administration in 1980, USTR succeeded the position of Special Trade Representative (STR), which was created (at congressional insistence) in the Trade Expansion Act of 1962; and whose status and authority were strengthened in the Trade Act of 1974.
Valuation	The appraisal of the worth of imported goods by customs officials for the purpose of determing the amount of duty payable in the importing country. The GATT Customs Valuation Code obligates governments that sign it to use the "transaction value" of imported goods -- or the price actually paid or payable for them -- as the principal basis for valuing the goods for customs purposes.
Value Added Tax (VAT)	An indirect tax on consumption that is levied at each discrete point in the chain of production and distribution, from the raw material stage to final consumption. Each processor or merchant pays a tax proportional to the amount by which he increases the value of the goods he purchases for resale after making his own contribution. The Value Added Tax is imposed throughout the European community and EFTA countries, but the tax rates have not been harmonized among those countries.

Variable Levy	A tariff subject to alterations as world market prices change, the alterations being designed to assure that the import price after payment of duty will equal a predetermined "gate" price. The variable levy of the European Community, the best known example, equals the difference between the target price for domestic agricultural producers and lowest offers for imported commodities on a C.I.F. basis. The amount of the levy is adjusted daily for changes in the world market situation in the case of grains, fortnightly for dairy products, and quarterly for pork.
Voluntary Restraint Agreement (VRAs) Voluntary Export Restraints (VERs)	Informal arrangements through which exporters voluntarily restrain certain exports, or usually through export quotas, to avoid economic dislocation in an importing country, and to avert the possible imposition of mandatory import restrictions. Such arrangements do not normally entail "compensation" for the exporting country.
WIPO	World Intellectual Property Organization
Working Party	Another type of GATT subgroup established by the contracting parties on an ad hoc basis to study a particular facet of its work. Customarily, membership in a working party is specified on the basis of nationality with each country determining which individual will participate. Upon completion of their studies, working parties report back to the contracting parties or the council ad may make recommendations on a course of action.

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